THE WHOLE OFFICE OF THE COUNTRY JUSTICE OF PEACE.

Wherein is plainly set down all their Power and Duty both in, and out of the QUARTER SESSIONS.

With the Ordinances and Acts of this present Parliament abridged, that any way concerneth their Power.

IN TWO BOOKS.

The second Edition Corrected, and with many practicall Additions Enlarged.

By WILLIAM SHEPHERD Esq; Sometime of the Middle Temple.

LONDON.
Printed for *W. Lee, D. Pakeman, G. Bedell,* and are to be sold at their Shops in *Fleetestreet,* 1652.

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THE FIRST PART.

Containing their Power and Duty out of the SESSIONS.

By *William Shepherd* Esquire.

2 Chron. 19, 5, 6, 7.

And he set Judges in the Land throughout all the fenced Cities of Judah, City by City.

And he said to the Judges, Take heed what ye do, for ye judge not for man, but for the Lord, who is with you in the judgement.

Wherefore now let the fear of the Lord be upon you, take heed, and do it; for there is no iniquity with the Lord our God, nor respect of persons, nor taking of gifts.

London, Printed for *W. L. D. P. G. B.* and are to be sold at their Shops in Fleetstreet. 1652.

To the Worshipfull

THE

JUSTICES

OF

PEACE

Within the Com-

MON-WEALTH of

England.

Gentlemen,

WHo, if not you, may challenge my Dedication of this Piece? And from whom, if not from you,

may I expect and challenge the Protection and Countenance thereof? At your feet therefore I leave it, and if now it may find favour in your sight, it is enough much to oblige

Your most humble
Servant,

W. S.

To

To the Reader.

Courteous Reader,

When I was first called to the Office of a Justice of Peace, I did (as I thought I ought to do) study the Office, and made a draught thereof for my selfe: the which, upon weighty causes, I offer to the Publick herein. This Office is doubtless an Office of speciall use in our Common-wealth. And by this and my former Treatise of the Constables (another Officer of the Peace of this Common-wealth) thou maist easily perceive of what a large extent these Offices are, and how many good Lawes these Officers are trusted with the execution of: and by comparing

the ſame with what is done by theſe Officers in the execution of theſe Offices, thou canſt not but obſerve a vaſt difference betweene the Power and the Execution thereof. The Truſt and Power is great, the uſe and imployment thereof is little. And truly, I may ſay, Wee have been the moſt happy Common-wealth for [a] *having, and the moſt unhappy for Execution of good Lawes, in the World. For* [b] *the life of Law being in execution, who doth not ſee that moſt of our Lawes are but dead, and breathleſſe Carcaſes*[c]*, and they themſelves by their non-execution, are executed? There ſeeme to have been (amongſt others) two ſpecial cauſes hereof.*

[a] *Leges Angliæ communes ex omnibus legibus humanis, utiliſſimæ, certiſſimæ, intigerrimæ, expeditiſſimæ, facillimæ.*

[b] *Anima Legum Adminiſtratio.*

1. *The want of Information.*

2. *The unfitneſſe of the men choſen to the Offices, for the Execution of Lawes. For either they have been*

[c] Hooker. The not executing of Lawes upon offenders, is the execution of the Lawes themſelves.

[d] *igno-*

[d] *ignorant, and know not;* [e] *cowardly, and dare not;* [f] *otherwise engaged and imployed, and cannot;* [g] *or lazy and negligent, and will not doe the duty of their Places. They have wanted will or skill. They have Price in their hand, but have no heart to it. Here's the Diſeaſe, and* [h] *grievous it is to the People: and the cure is obvious, and already eſpied, and begun by our State-Phyſicians. Let able and fit men be choſen to, and kept in theſe Offices. And truly (if I be not miſtaken) herein lieth almoſt the whole Work of Reformation in Church and Commonwealth, to make and keep the Officers thereof good. For let the Lawes and Modell for Government be never ſo good, if the Officers truſted with the Execution thereof be naught, little fruit will come thereof. Had our Biſhops, and Officers about them, been choſen out of the beſt men of the Time*

[d] *Qui vadit in tenebris, neſcit quo vadit.*

[e] Prov. 29. 5. The fear of Man is a ſnare. *Qui non eſt fortis, facilè ad injuſtè faciendum vincitur.*

[f] 2 Tim. 2 4.

[g] Prov. 24. 30, 31.

[h] *Preeſſe & non prodeſſe moleſtum.*

Time, doubtleſſe Epiſcopacy had not been ſo grievous and odious: and exchange it for Presbytery, and let the Presbyters be ambitious, covetous, and contentious; and may not this Modell be more grievous and odious? The like may be ſaid of the Independent Model. Make the Tree good, and the Fruit will be good. Pro. 29. 2. When the Righteous are in authority, the People rejoyce. *Happy People! that live under ſuch Trees as* Joſeph, Daniel *and* Mordecai *were. Let our Juſtice of Peace then be curiouſly choſen out of the fitteſt of men, after the draught of Scripture Magiſtrates, with theſe Properties.* i.e. *Let him be* 1. *An able man,* Vir virtutis, *a man able in body and minde to do the Commonwealth ſervice; not an* Ignoramus, *one that can do nothing without his Clerk; for it is an Office of skill and pains, and the work of a ſtrong man.*

Exod. 18. 21. Deut. 1. 13 15. 2 Sam. 23. 3. 1 Chron. 26. 6. Prov. 28. 16. Gen. 17. 6.

2. *A man fearing God, not a man wicked in life and converſation; for Power without Piety is but armed Injuſtice; and* [k] *if he can do much, he will be ſure to doe much miſchief. I underſtand not the meaning of that politick Maxime, A bad man may be a good Common-wealths man. It ſeems to have more truth in it,* * *That he that hath no care to reforme himſelfe, will never have care to reforme others.* 1 Tim. 3. 5. *Magiſtrates are* Umbratiles dii, *well it were if they did more lively repreſent divine Perfections. And it is* pudendus pudor, *to ſee a man in Honour, unlike to God in Holineſſe*

A Magiſtrates honour is his holineſſe.

[k] *Corruptio optimi peſſima.*

* *Quis cuſtodiat ipſos cuſtodes.* He can never be faithfull to me, that is not faithful to God. *Conſtantius.*

3. * *A man of underſtanding and judgement, one that can diſcerne what is* æquum, *diſtinguiſh between the weight and juſtice of the Complaint, and malice of the Plaintiffe; one that can ſpeake the Law, and judge according to the Rule thereof, not*

* There are three principall ornaments of a Juſtice, *Juſtice, Wiſdome,* and *Fortitude.* Lamb. *Nos numerus ſumus.*

not weak for Abilities of Government.

4. *A man of Courage, valiant for God and his Truth, and in the execution of his Office, not fearfull and daſtardly. Welfare the Emperour, that being asked, whom he loved beſt, anſwered, Hee that doth not fear me more then God. I wiſh then, that all fearfull Juſtices would do as thoſe fearfull Souldiers,* Judg. 3. *did,* leave the work, *being good for nothing but to make up a number.*

5. * *A man of Truth, one that loves Truth in himſelfe and others, and counts it his duty and dignity to ſift it out in all things, and having found it, to embrace and maintain it to the uttermoſt; for he will eaſily prove a falſe Friend, that wil at any time dare to falſifie Truth for his Friend.*

6. * *A man hating Covetouſneſſe, one that will not let go the guilty, or puniſh*

* *Magis amica veritas, fundamentum pacis veritas, ſtabilimentum utriuſque poteſtas.*

* Acts 24. 26. *Demoſthenes* bribed by the *Mileſians.*

puniſh the guiltleſſe for gain, that ſhaketh his hands from holding Bribes; For Covetouſneſſe is not only Idolatry, but it makes the covetous Judge an Idolater, Iſai. 33. 15. That have eyes and ſee not, ears and hear not, and a mouth and ſpeaketh not.

7. *A juſt man, one addicted and affected to Juſtice.*

8. *An active, not a lazy man.*

9. *A known man,* (*that is,* * *as ſome take it*) *a man experimented amongſt the People for theſe things: or* (*as others take it*) *a man excelling others for Reputation, Power, and Ranke, not an obſcure and mean man; for power will arme skill: and it is as abſurd* (* *as one ſaith*) *to advance to places of Rule men weak for Abilities: as for a Servant to ride on horſe-back, and the Maſter to lackey on foot. I ſay not, Every Juſtice of Peace muſt have*

* See the Annotations of *Deodate.* and the Divines of the Aſſembly upon *Deut.* 1. 13, 15. the chief of the Tribes * *Pemble* on *Eccleſ.* 10. 4.

have one thousand pounds a year, or be a Gentleman, &c. But I say, he had need to have enough to carry him through his Office; and it were fit he did excell other men, if not in these things, yet at least in Wisdome, Piety, Courage, and better Qualifications. Prov.12.26. The Righteous is more excellent then his neighbour. *Such men as these doubtlesse will seek the things of* Christ *and Christians, not their own,* Phil.2.21. 1 Cor.10.24,33. *Wait on their Ministery, and rule with diligence,* Rom.12.7,8. *Judg the People at all Times,* Exod.18.22. *Be industrious in their Places,* 1 Sam.7.16. Psal. 101.8. *Such men will consider, that they execute the Judgements of God, and not of men, that he sits amongst them, and looks on them, and that there is no iniquity in him, respect of persons, nor taking of gifts. And*

there-

therefore they laying aſide all partiality, reſpect of perſons, baſe fear, fooliſh pity, ſinfull favour, and malice, unneceſſary delay, precipitate raſhneſſe, and ſelfe-ſeeking, will duly, indifferently, and uprightly miniſter Juſtice to every man. And the God of Order, and King of all Government give us ſuch Juſtices, and grant us ſuch an Execution of Judgement and Juſtice, that our Officers, according to the Prophecy, Iſai.60. 17,18. *May be* Officers of Peace, *&c.*

Pſal. 101. 12. 2 Chron. 19.6. Pſal.82. 2. Deut. 16. 19. 17 & 4. 1. 17. Prov.26. 12. Levit. 19. 18. Jam.1.20. Eccluſ 11. 7,8. Judg.19. 30.

If any now ſhall think this Labour ſuperfluous, there being already in Print ſo many excellent Pieces of this Subject, Let me intreat them to ſuſpend their judgement till they have read it; for then they will find many things in this that were not, many other things that could not be in any of the former: and that

that which is here, and was in the former, they ſhall find here in a dreſſe and method much differing from the former. And ſo farewell.

Thy true Friend,

W. S.

THE

The whole Office of the Country Justice of Peace.

CHAP. I.

Directions for Justices of the Peace, drawn from experience.

BEfore we enter into the duty and power of theſe officers, we ſhall premiſe and lay downe ſome things by way of advice, taken out of our own experience and obſervation, as much conducing to the furtherance of juſtice, improvement of the execution of this office, and advantage of the Common-wealth. And firſt, generally.

The Juſtices muſt take great care in the choice of all the officers of truſt that are under them; as Church-wardens, Overſeers of the poor, and the reſt, but eſpecially of the high Conſtables, and petit Conſtables. And for this, to chuſe them themſelves, and to find out the moſt pious, well affected, diſcreet, publick-ſpirited, able and active men, and to make their election alwayes of thoſe men. 1.

It is very good to keep ſpeciall Seſſions often in, and about the County, and to have there a 2.

Cap. 1. choice Jury of the most prudent, and pious men of the place. And for this they may without doubt (if they please) get the Sheriffe to return the men of the Justices naming. And it is best then to give them in charge some few speciall things, as Ale-houses, persons of ill behaviour, vagrants, swearers, and the like. And it will be best to keep it only for one or two Hundreds, and not more at any one time, or in one place. And this may be held by any two Justices of the Peace, one of them being of the Quorum: And they may, if they please, call to their assistance the Clark of the Peace, who is bound, being required, to attend them. And if they please, they need not give any other charge but this, to require them of the Jury, to enquire upon the heads of the things contained in the Warrant, by which the Sessions is called: which may be after this manner.

A Warrant to the High Constables to call a speciall Sessions.

To the High Constable of *A.*

Glouc. ss. *You are hereby required, and straitly commanded, that you cause to be apprehended in all places within your hundred, all this next Summer, all persons whatsoever, above seven years old, that are Minstrels, Pedlers, Tinkers, Fortune-tellers, Players, Fencers, Beare-wards, and other idle persons able to work, that wander, and rogue or beg about the country, under any pretence whatsoever, and bring them before some Justice of Peace to be examined.*

And

And you are to give notice in all places within your Hundred, that there will be a speciall Sessions of the peace holden for the County of Glouc. *at the house of* H. *in* Strowd, *upon Munday the twentieth day of May next, by nine of the clock in the morning of that day; and that you require all the petit Constables, and Tithing men of your Hundred, to be then, and there, with a note in writing of the names of all such persons within their parishes and tithings, as have within seven years last had any bastard child, and not been punished for it; and of all such as are idle persons, and want means to live upon, and will not work by order of the overseers of the poor; of all common labourers that will not work for the wages of the Country; of all such as are common beggars, wandring, idle, or disorderly persons; of such as do not put themselves to service, being appointed by the Justices of Peace; of such as are suspected for theevery or incontinency; of all common swearers, common drunkards, common hedge-breakers, common Ale-house haunters, common slanderers or libellers; of such as profane the Lords name or day, by swearing, or Sabbath breaking; of such as run away, or threaten to run away, and leave their families to the parish; of such as are poor, and will not let their children be bound Apprentices; of such as use to sel Ale or Beer with, or without license; and of al such as do not do their duty towards the repairing of the high-ways, according to the statute; and also the names of all such as hinder the punishment and convey of rogues to the Justice or to Bridewell, or the settlement of the poor. And you are also to require the said petit Constables to warne to appear then and there, all such persons as they think to be fit and able to inform a-* Chap. 1.

Chap. 1. *gainst any such offendors; And all petty Constables and other persons so warned in, are to appear and submit thereunto, at their perils. And that your self be then there also, to give in a return in writing of the names of all the parishes and petty Constables thereof, within your Hundred, and the defaults of such of them as shall not do their best to apprehend such idle and vagrant persons, and punish them according to the statutes, or have not done their duty in the convey of rogues to Bridewell, or otherwise in the execution of their office; and hereof fail not. Given under our hands and seals this first day of May, 1651.*

This Warrant the Justices may make for as many, or as few of these offences, as they please.

A Warrant to a Sheriffe for the summoning of a Jury.

Glouc. ss. *A. B. and C. D, Esquires, Justices of Peace of the County of* Glouc. *to the Sheriffe of the said County, greeting. We command you, that you cause to come before us at the house of* H. *in* G. *the twentieth day of this present month of May, twenty four good and lawfull men of the Hundred of* S. *in your County* [*or of the Hundreds of* S. *and* M.] *for a Jury, to enquire then and there on the behalfe of the Keepers of the liberty of England by authority of Parliament, upon certain articles grounded upon the Statute of the fifth year of Queen* Elizabeth, *concerning labourers, and the Statute of the* 39th *year of that Queen, concerning rogues and va-*

vagabonds, and other things which shall be then given them in charge on the behalfe of the said Keepers of the liberties, against other malefactors. And that you make Proclamation in some fit places within the said Hundreds [or Hundred] that all such as will prosecute against any such persons, be then there before us ready to do it. And that you your self be then there ready with this our precept, and the names of the Jury aforesaid. Witnesse our selves, the said A.B. *and* C.D. *at* S. *in the County aforesaid, the first day of March, 1651.*

A. B.
C. D.

Chap. 1.

For the power of this speciall Sessions and order of proceedings therein, See it in the second book and the seventh chapter thereof: And in chapter 9. 11. 12 and 13, of that second book.

3. Wherein soever the Justices do find any defect of a law conducing to the end of punishment and reformation of any offence, it will be their wisdom (as much as may be) to supply it by an order made at their generall Sessions.

4. They must take care to make their Sesions orders known in the County, either by posting them up all the Sesionstime, or by causing them to be read or posted up in some of the great Towns of the County.

5. To have as many informers and spies to discover evill doers, and to give the informers all due encouragement, by concealing their names, and recompencing their service with a reward by the County stock. And to make and have standing orders of the Sesions for this purpose.

Chap. 1. 6 To give honest and careful officers all due encouragement, by punishing severely such as do abuse them, and taking care they may be protected in the doing of their office, have their monies they lay out for their parishes again from the parishes.

7 To have a County stock of mony alwayes. And for this, to set and keep up the Rates for the kings Bench and Marshalsie, the Prisoners in the Gaole, and the Mariners and maimed souldiers to the highest, and see it fully collected and brought in, and carefuly to husband that stock, for the profit of the county.

8 To have houses of correction, and a Goale strong and sufficient, and wel provided and governed; and for this purpose, to charge the county with so much mony from time to time as shall be needful for the doing hereof. But now more particularly.

High ways. The best way we have found by our experience to haste the Amendment of high ways, is by these two means. 1. If one of the Justices of Peace view and indite one of the places thereabouts where the ways are bad, upon his own view, at the Quarter Sessions, and set a good handsom fine upon the place; for besides that this mony will help to repaire the way, this will stirr up the neighbourhood. 2. If the Justices about a month after Easter, appoint a sitting of purpose, and before this time send their warrants to the high Constables of the places, to this purpose.

To

To the high Constable of *S. A.B.* and *C.D.* Esquires, two of the Justices, &c.

We command you to send your warrants to all the petit Constables or Tithingmen, and surveyors of the high ways, of the severall parishes and Tythings within your Hundred, to give them notice, that they are to appear before us the day of this month, at the. &c. and then, and there to bring with them a note in writing of all such Constables and Church-wardens, as have not chosen surveyers for the high way-work, or have not given notice of the days for the work, and of such surveyers as have not seen the same done, and of all such persons as do not their work by themselves, or their places, according to the lawes in that case provided. And of all such as do not dig their ditches, and cut & pare their hedges adjoyning to the high ways; to the end that we may proceed against them, according to the Tenor of the same Laws. Given under, &c.

The like warrant may (if need be) be sent about Midsomer. We have found much successe by this warrant, and that it hath much hastened the work. What the Justices may do hereupon out of the Quarter sessions, either at their special sessions, or out of any sessions, See in the first Book, chap. 27, and the second Book, chap. 7.

For the suppressing of Alehouses and Alehouse keepers, the root of all evill, we have but these two wayes. 1. To go Circuit the County, and by the presentment of honest Juries at Ale houses

Chap. 1. the speciall Sessions, and the returne of the Constables of every place, there to have all their names that sell given in, and then to continue as many of them as shall be thought necessary. And either by the Constables, or by two men sent of purpose (which is a better way) to discharge all the rest that are supernumerary. And this being proved to be done, if they sell afterwards, to commit them to Gaole for three days, and until they give Bond with sureties never to sell again. But this remedy, as some of the passages hereof may be somwhat questionable, because not done by the ordinary way of inditement, so have we not found it very successfull. We have therefore, after we had discharged them, and had proof thereof, by order of the sessions directed to certain persons by name, ordered the commitment of these persons for their contempt. But the other way (which we take to be the best remedy for this evill) is to convict them once, and make them pay their 20s. And then to get them convicted the second time, and for this to send them to Bridewell, and let them stay there their month, and the third time to make them stay there untill the Justices may be assured they will give over.

Rogues and vagrants. The best way to scour and rid the Countrey of vagrants and idle persons, is by setting up certain officers of purpose to look after them, and to arm them with such power, and give them such pay by sessions order, as they can make. And these they may call Marshals. And if these officers do in the beginning of the Summer, out of the Fairs and such like places of meeting, take up but some of these, and carry them before

fore the Juſtices of the Peace, or to the Bride-well, this will very much cleer that County for that ſummer. And this courſe we have found very ſucceſsful this way. Chap. 2.

Chap. II.

Of the power of Juſtices of the Peace in Generall.

Sect. 1. What one Juſtice of Peace may doe out of the Seſſions, and where there muſt be two or more to do any thing. And of their power and Office in generall.

1. ANy Juſtice of the Peace, whether he be of the Quorum or not, may do moſt of the works which belong to their Office; but ſome things cannot be done by leſſe then two Juſtices of Peace; for where power is given to two of them to do a thing, one alone cannot do it; And in ſome caſes, and for the doing of ſome parts of their Office, it is requiſite that one or two more be of the Quorum. But where one Juſtice may do a thing, there two or more may doe it; for it may bee done by more, though it cannot be done by fewer. *Dalt. J. P.* fol. 26. 27. 73. &c.

Sect. 2. Peace. Warrant. Arreſt.

2. When a ſtatute appointeth a thing to bee done by two Juſtices of Peace, if the offence be a miſdemeanour or matter againſt the Peace, upon complaint to any Juſtice of peace of this offence done, he may grant his warrant to attach the offender, and bring him before theſe two Juſtices, or to find ſureties for his appearance at the next Seſſions to anſwer this Of-

Chap. 2. Good Behaviour.

Offence. Or if he see cause, he may bind him to the good behaviour, and so to appear at the next Sessions. But he alone cannot determine the mater, *Dalt. J. P.* 29.

Sect. 3.

All that Justices of Peace have power to do, it seems, it is their duty to do; and what is their duty to do, they have power to do. And for their neglect of their duty they may be punished in one way or other.

Posse Comitatus.

Sect. 4.

Felons. Peace.

Good Behaviour.

Any one Justice of the Peace, when need requireth, may take with him, or require for his assistance in the execution of any part of his Office, as to apprehend Felons, keep the Peace, or the like, any number of men he shall think fit. And such as are able must obey their Commands herein, or they may be bound to the good Behaviour, or fined for their disobedience. 5.

Sect. 5. Peace.

A Justice of Peace, as touching the keeping of the Peace, may do all that a Constable, or a private person may do by the Common Law. 6.

Sect. 6.

They are in the room of the ancient Conservatours of the Peace, and have the same power they had. 7.

Sect. 7. Sessions.

Where a Statute doth give a power to Justices of Peace of *Oyer* and *Terminer* in general of any Offence, and saith not where, there it must be done, and cannot be done out of one of the Sessions. But if it give them a power to do any special thing, as make a rate or the like, and say not where, there they may do it in or out of either of the Sessions. 22. *H.* 5. *Cook* 2 *part* of his *Inst.* 703, 704.

Sect. 8.

Where a thing is to be done by the Justices with the assent of others, neither of them

them alone can do it. *Cook. 2. part. Inst. 704.* Cap. 2. *Sect. 9.*

They must, in executing of the power given to them, by Act of Parliament, be very cautious, and see that they strictly pursue it; and therfore that they heed the words of the Statutes; which are penned diversly. 1. As to the persons of the Justices, some things may be done by one, some things not by lesse then two, and some things not by lesse then three Justices: And some things cannot be done by any Justices, unlesse one of them be of the Quorum. 2. They differ as to the Manner of conviction; Some of them appoint the Conviction to be by oath of witnesse, some by verdict, some by view or hearing, some by confession, some by examination, some by enquiry and examination: some statutes give them power to hear and determine. And some say, it shall be done in a Sessions, some in a Quarter-sessions, or in a publick, or in a generall sessions. And some say, That the Justices shall punish the offence, but do not say, where, nor how, nor any thing at all for the manner of conviction; some statutes say nothing of the way or manner of doing of execution. See 14. *Eliz.* about the rates of the prisoners in the Goal touching the five pound forfeiture, there is no way or manner of conviction, or of the doing of execution set down; some statutes again direct the way and manner of execution, but say nothing of the manner of conviction; as the act of 43. *Eliz.* about the Kings bench & Marshalsie mony. The forfeitures of one shilling by the churchwardens, & twenty shillings by the high constable, are appointed to be levied by distresse and sale of goods, by warrant from

Cap. 2. from the Treasurer. But it is not said, how they that offend herein shall be convicted. So the fine to be set on the Treasurer for his default, is to be set by the Justices at their Quarter Sessions, and levied by sale of goods; but it is not said how the Treasurer shall be convicted. So the twenty shillings forfeiture to be set upon the Overseers of the poor, for their neglect, is to be levied by the subsequent church-wardens or overseers, by warrant from two Justices of Peace, by distresse and sale of goods; but the statute doth not direct how the overseer shall be convicted of his offence, whether by witness or how else. So upon the *Stat.* of 43. *Eliz.* for Mariners and maimed souldiers; it appointeth that the forfeiture of 20 s. for the default of the churchwardens and petit constables, and 40 s. for the default of the high constables, be levied by the Treasurers, by distresse and sale of goods; but doth not say how he shall be convicted of the offence.

And it seems in these cases of the Kings-bench and Marshalsie, and Mariners and maimed souldiers, the Treasurers may leavy the forfeitures without any conviction, for there needs no proof here; if he receive not the money, the offence is certain to him: And then, *Quod constat clarè non debet verificari.* Yet it is best to let the parties be indicted, and so convicted in the ordinary way before they make a distresse. For this doubtlesse, in all the other, and such like cases where the matter of fact is doubtful, is to be done before execution can be made by distresse and sale of goods. 3. The statutes differ also in their penning, as to the persons by whom the

the distresse is to be made; for some of them direct, that the Warrant shall be directed by the Justices of the Peace to the Constables, some of them to the Church-wardens, some of them to the Constables and to the Church-wardens, some of them to the Constables or Church wardens, some of them to others, some to no person at all. 4. And lastly, They differ as to the manner of the warrant, for some of them direct it to be done by warrant only, and doth not say in writing; others by warrant in writing, others by warrant under the hands of the Justices, and others by warrant under the hands and seals of the Justices. In all these cases the words of the statute are to be heeded, and they giving a power and authority only, it must be strictly pursued. See the Acts of the Parliament about Ale-houses, *Ord. 9. Decemb.* 1646. Act of the 9. of *April* 1650, 1 *Car.* 1. 3 *Car.* 1. and see chap. of the first book. Cap. 2.

Where a statute gives to the Justices of Peace a power, for lack of distresse, to inflict a corporall punishment, this lack of distresse (it seems) must be taken for lack of distresse in the place where the distresse may be taken, and where the officer that is to take it, hath power. As if a Justice send his warrant to the constable of *A.* to leavy money by distresse and sale of the goods of *H.* in Dale, and he be a stranger and hath no goods there, but hath enough in other places; in this case he is to be dealt with as a man that hath no distresse at all. See more of this in the second book chap. 9. and first book chap. 49.

CHAP.

CHAP. III.

Of Blaſphemy and Hereſie.

Sect. 1. FOr the opening hereof, theſe things muſt be laid down: 1. To maintain and publiſh by preaching, printing, writing, or teaching, That there is no God, that God is not preſent in all places, or that he doth not know, and foreknow all things; or that he is not Almighty; or that he is not perfectly holy; or that he is not eternall; or that either of the three Perſons of the Godhead is not God; or that they three are not one eternall God; or that Chriſt the Son is not equall with the Father: or ſhall ſo denie the Manhood of Chriſt, or that the Godhead and Manhood of Chriſt are ſeverall Natures; or that the humanity of Chriſt is without ſin: or that ſhall maintain, as before, that Chriſt did not die, or not riſe from the dead, or is not aſcended into heaven bodily; or ſhall deny that his death is meritorious in the behalf of Beleevers; or that Jeſus Chriſt is not the Sonne of God, or that any part of the Scripture is not the Word of God; or ſhall ſo deny the reſurrection, or day of Judgment. 1 An obſtinate maintaining of any of theſe errors, is Felony. 2 For this the offender, if he be found guilty, and do not then abjure it, and the defending of it any further, he is to ſuffer as a Felon, and not to have his clergy, but forfeits nothing, nor is his blood attainted. 3. If he do abjure it, he muſt lie in priſon till he have given bond with two ſureties, ſubſidy men, to two Juſtices of the

the Peace, or Judges of Gaol-delivery, not to offend so again. 4. If he then offend again, he is to dye without mercy. 2. If any maintain and publish, as before, that all men shall be saved, or that man by nature hath free will to turn to God, or that God may be worshipped in or by Pictures or Images, or that the soule of any man after death goeth neither to Hell nor Heaven, but to Purgatory; or that the soul of man dieth or sleepeth, when the body is dead; or that the revelations or workings of the spirit are a rule of faith, or christian life, though diverse from, or contrary to the written Word of God; or that man is bound to beleeve no more than by his reason he can comprehend; or that the Morall Law of the ten Commandments is no rule of christian life; or that a beleever need not repent or pray for the pardon of his sin; or that *Baptism* and the Lords Supper are not the two Sacraments appointed by the Word of God; or that the baptizing of Infants is unlawfull or void, or that such persons must be rebaptized, or shall rebaptize any person so baptized; or that the observation of the Lords day according to our custome, is not according to, or against the word of God; or that it is not lawfull to joyn in publick prayer or family prayer, or to teach children to pray, or that the churches of *England*, their Ministers or Ordinances, are no true Churches, Ministers, or Ordinances; or that the Church-government by Presbytery is Antichristian or unlawfull; or that Magistracy is unlawfull, or that the use of Arms in any case is unlawfull. 1 All these Tenents are offences. 2. Hee that is convicted Cap. 3.

hereof

Cap. 3. hereof, if he will not renounce it in the open congregation upon the Juſtices Order, he is to be committed to priſon, till he finde two ſureties not to do ſo again. *Ord.* 2. *May* 1648.

3. If any (not diſtempered or diſtracted) do by word or writing, ſeriouſly maintain any creature to be God, or equall with God in his Attributes, or that God dwels in the creature: or ſhall denie the holineſſe or righteouſneſſe of God, or ſay, That wicked perſons, or wickedneſs, or wicked acts of ſwearing, drunkenneſſe, or lewdneſſe, are not unholy againſt Gods word, but are approved by him, or that ſuch things, or ſuch perſons therein are like God: or ſhall ſay, That theſe acts of denying and blaſpheming God, or the holineſſe or righteouſneſſe of God, or the acts of curſing God, or ſwearing profanely or falſely by the Name of God; or the acts of lying, ſtealing, couzening and defrauding others, Sodomie, drunkenneſs, filthy and laſcivious ſpeaking, are not things in themſelves ſhamefull, wicked, ſinfull, impious, abominable, and deteſtable in any perſon, or to be practiſed or done by any perſon or perſons. Or ſhall profeſſe, that the acts of adultery, drunkenneſſe, ſwearing, and the like open wickedneſſe, are in their own nature as holy and righteous, as the duties of prayer, preaching, or giving of thanks to God: or ſhall avowedly profeſs, that whatſoever is acted by them, whether whoredome, adultery, drunkenneſſe, or the like open wickedneſs, may be committed without ſin; or that ſuch acts are acted by the true God, or by the Majeſtie of God, or the eternitie that is in them; that heaven and all happineſſe conſiſts in the

the acting of theſe things, which are ſin and wickedneſſe, or that ſuch men and women are moſt perfect, or like to *God*, or Eternity, which do commit the greateſt ſins with leſſe remorſe or ſenſe. Or that there is no ſuch thing really and truly, as unrighteouſneſſe, unholineſſe, or ſin, but as a man or woman judgeth thereof; Or that there is neither heaven nor hell, ſalvation nor damnation; or that theſe are one and the ſame thing, and that there is not any diſtinction or difference truly between them. Chap. 3.

For the firſt offence, he is to be impriſoned in the Gaole or houſe of correction, three moneths without bayle. For the ſecond to be baniſhed, and if he return, to ſuffer as a felon.

Sect. 2. The Duty and Power of Juſtices out of Seſſions.

Any two Juſtices of peace upon complaint, may examine it on oath, and being proved by two witneſſes, or the parties confeſſion, may commit the offenders of the firſt rank to priſon without bail, and bind over the witneſſes to the next gaole-delivery. 2. Two Juſtices may take bond with two ſubſidue men his ſureties, from ſuch perſons convicted upon the triall, and having renounced the opinion, that he will not ſo offend again. 3. Two Juſtices, *Quorum unus*, may likewiſe ſo examine the offenders of the ſecond rank, and finding it, may order the offender to renounce his errour in the publick congregation of the pariſh, whence the complaint came, or where the offence was done; which if he obey not, they are to ſend him to gaole, till he give bond with two ſureties, ſubſidue men, to them, never to offend ſo again. *Ord.* 2 *May*, 1648. 4. And as for the offence of the third ſort of offenders, any one Juſtice may

Cap. 4. upon his own confeſſion, or oath of two witneſſes, convict the offender of the firſt offence, and commit him to priſon, or the houſe of correction for ſix moneths, without bail or mainpriſe.

CHAP. IV.

Of the Lords Day, and Profanation thereof.

Sect. 1. FOr the better underſtanding of the Law herein, theſe things are to be known. 1. This day is by every one to be ſanctified and kept holy: And men muſt be carefull herein, to exerciſe themſelves in the duties of piety and true religion publickly, and every one on this day (not having a reaſonable excuſe) muſt diligently reſort to ſome publick place where the ſervice of God is exerciſed, or muſt be preſent at ſome other place, in the practice of ſome religious duty, either of prayer, preaching, reading, or expounding the Scriptures, or conference upon the ſame. 2. None may on this day meet out of their own pariſh at any ſports whatſoever; nor may they meet within their own pariſh for bear-baiting, bull-baiting, interludes, or other unlawfull exerciſes, under pain to forfeit three ſhillings four pence for every offence, to be levied by diſtreſſe and ſale of goods; and for lack of diſtreſſe, to ſit three hours in the ſtocks. Nor may any on this day keep, or be preſent

Sports.

at

at any wraſtlings, ſhootings, bowlings, ringing of bels for pleaſure, maſque, wake, church-ale, dancing, games, ſports, or paſtimes whatſoever, under pain to forfeit five ſhillings, if he be above 14 years old; and twelve pence by him that hath the government of him, if he be under 14 years old, to be levied by diſtreſſe and ſale of goods; or if no diſtreſſe to be had, to ſit in the ſtocks three hours. 3. No carrier may go with his horſes; wagoner, carter, or wainman, may go with his cart, wagon, or waine; or drover with his cattel, on this day, under paine to forfeit twenty ſhillings for every offence, to be levied by diſtreſſe and ſale of his goods, if he be queſtioned within 6 weeks after the offence done. But there ſhall be but one twenty ſhillings forfeited for one journey, although he paſſe through twenty pariſhes, and the twenty ſhillings that pariſh ſhall have where the diſtreſſe is firſt taken. 4. No butcher may kill or ſell any victuals on this day, under pain to forfeit ſix ſhillings eight pence, if it be queſtioned within ſix weeks after the offence done, to be levied by diſtreſſe and ſale of goods. 5. None may cry, ſhew forth, or put to ſale any wares, merchandizes, fruits, herbs, goods or cattell, on this day, unleſſe it be in an inne or victualing houſe, and for ſuch as cannot otherwiſe be provided for; and unleſſe it be the crying and ſelling of milke before nine in the morning, and after four in the afternoon, from the tenth of *September* to the tenth of *March*; and for the reſt of the year before eight in the morning, and after five in the afternoon, under paine to forfeit the thing ſo cryed, or offered to ſale. 6. None may on this

Chap. 4.

Carriers.

Butcher.

Tradeſmen.

Travellers.

Chap. 4. day, without good cauſe, by allowance of one Juſtice of peace, travell, under pain to forfeit ten ſhillings; nor carry any burden, or do any worldly labour under pain to forfeit five ſhillings, both theſe forfeitures to be levied by diſtreſs and ſale of goods; and if no diſtreſſe be to be had, to ſit in the ſtocks three hours. 7. None may on this day, or the dayes of humiliation or thankſgiving, uſe dancing profanely, ſinging, drinking or tipling in any Tavern, Inne, Alehouſe, or Tobaco-houſe, nor be there, or grind any corn at a mill, but upon cauſe to be allowed by one Juſtice of peace, under pain to forfeit ten ſhillings a piece, he that is in the Inne, and he that keeps the Inne; the millard, and he that owes the corn, to be levied by diſtreſſe, and ſale of goods, and for lack of diſtreſſe, to be ſet ſix hours in the cage or ſtocks. 8. No traveller, wagoner, butcher, higler, drover, or their ſervants ſhall come into their Inne or lodging on Saturday-night after twelve a clock, nor go from thence Munday morning before one a clock, without neceſſary cauſe to be allowed by one Juſtice of peace, under pain of forfeiture of ten ſhillings by the Inkeeper, and ten ſhillings by the traveller, to be levied by diſtreſſe and ſale of goods; and for lack of diſtreſſe, to be ſet ſix hours in the ſtocks or cage. 9. None may execute any writ, order, or warrant on this day, dayes of humiliation or thankſgiving (but in caſe of treaſon, felony, breach of the peace, and profaning of the day) under pain to forfeit five pound to be levied by diſtreſſe, and ſale of goods; and for want of diſtreſſe, to ſit ſix hours in the cage or ſtocks, and the ſerving of the Proceſs is

Drinking. Tipling.

Millard.

Carrier.

Serving of Proceſſe.

Void.

is void. 10. None (but in case to be allowed by one Justice, or for Gods service, may travell with any boat, wherry, lighter, barge, horse, coach, or sedan on this day, under pain of forfeiture of ten shillings, by him that is carried, and five shillings by him that doth carry, to be levied by distresse, and sale of goods; and for lack of distresse, to sit six hours in the stocks or cage. 11. All constables, church-wardens, overseers of the poor, governours of companies of water men, and other officers, must upon sight and knowledge, or information of any of these offences before named, committed, seize and secure the goods or wares cried, shewed forth, or put to sale, and make diligent search for the discovering, finding out, apprehending and punishing of them, under pain of twenty shillings, to be levied by distresse, and sale of goods. And this punishment they must (as it seems) endeavour by informing against the offender to a Justice of peace. 12. If the Justice doth not his duty, he forfeits five pound, to be levied by distresse and sale of goods, by warrant from the Lord chief Justice, Lord chief Baron, or Judg of Assize, upon view, confession, or proof of one witnesse. 13. All these forfeitures (save only something in some few cases after named) must go to the poor of the parish, and the overplus in all cases is to be returned to the owner. 14. These Lawes are to be openly read at the Quarter-sessions, and there, and at the Assizes, to be given in charge to the Grand Jury, and to be read the first Lords Day in *March*, every year. 15. If any book be found against the morality of the Sabbath or fourth command-

Chap. 4.
Coaches.
Boats.
Officers.
Seize goods.
Search.
Forfeitures.

Chap. 4. ment, or to countenance the profanation thereof, they are to be burnt. *Stat.* 1. *Car.* 1. 3 *Car.* 1. *Ord.* 6. *April* 1644. *Act.* 19. *April.* 1650. 17. *Sep.* 1650. 27. *Sep.* 1650.

The power and duty of the Justices of Peace herein out of Sessions. *Sect* 2.

Any one Justice of Peace may, and must, upon view, confession, or oath of one witnesse, give a warrant under his hand and seal to the constables or church-wardens of the place or places where the offence is done, to levy by distresse and sale of goods the 3 s. 4 d. upon, and for lack of distresse to put in the stocks three hours, such as have been at, or used any unlawfull sports or pastimes in their owne or any other parish, against the second branch of this chapter, *Sect.* 1. So one Justice may give a warrant under his hand and seal to the constables and church-wardens of the place where the offence is done, to levy by distresse and sale of goods the 5 s. of him that is above 14 years old, and the 12 d. of the Governor of him that is under 14 yeers old; and for lack of distresse, to set him in the stocks three hours, that hath kept, used, or been present at any unlawfull sports, against the same second clause of this chapter. 2. Any one Justice may, and must upon confession, view or oath of two witnesses, within six weeks after the offence done, give a warrant to the constables or church-wardens of the place where the offence is done, to levy by distress and sale of goods the 20 s. forfeiture upon Carryers, V Vainmen, Drovers, and such like offenders, against he third clause of this chapter before; and the 6 s, 8 d. forfeiture upon Butchers for killing or selling meat, against the 4th clause of this chapter. 3. Any one Justice may, and must upon view, confession or proof of one

Sports,

Carriers.

Butchers.

Tradesmen.

one witneſſe, give a warrant under his hand and Chap. 4.
ſeal, to the conſtables and church-wardens of the
place where the offence is done, to ſeize goods
cryed, ſhewed, or put to ſale againſt the 5th clauſe
before. Or he may (as it ſeems) give a war-
rant before conviction to any other beſides an
Officer, to ſeize and ſecure ſuch goods, to the
end that the perſon may be afterwards proceeded
againſt according to law. 4. Any one Traveller.
Juſtice may, and muſt upon view, confeſsion,
or one oath, give a warrant under his hand and
ſeal to leavy by diſtreſſe and ſale of goods the
ten ſhillings of him that travelleth, and the five
ſhillings of him that carryeth any burden, or
doth any worldly work on this day, againſt the
ſixth branch before, *Sect.* 1. and for lack of di-
ſtreſſe, to put him in the ſtocks three hours; this
warrant to be directed to the Conſtables and
church-wardens of the pariſh where the offence
is done. 5. Any one Juſtice may and muſt Tippling.
give a warrant to leavy by diſtreſſe and ſale of
goods, the forfeiture of ten ſhillings upon, or
for lack of diſtreſſe, to ſet in the ſtocks or cage
ſix hours, him that (contrary to the ſeventh
branch before, *Sect.* 1.) ſhall be on theſe days
dancing, ſinging, or tippling in an Ale, or the
like houſe, or grinding corn at a Mill; and ſo
the ten ſhillings upon the Alehouſe-keeper that
entertaineth them, and Millard that grindeth. Millard.
So any one Juſtice may give a warrant to levy
by diſtreſſe and ſale of goods, the forfeiture of
ten ſhillings upon, or for lack of diſtreſſe to ſet
in the ſtocks or cage ſix hours, a traveller, wago-
ner, &c. that (contrary to the eight branch
before, *Sect.* 1.) doth come into his lodging after

Chap. 4. twelve no the Saturday night; or go out before one a clock the Munday morning; and ſo likewiſe the forfeiture of ten ſhillings upon the Innkeeper, &c. And ſo any one Juſtice may and

Serving of Proceſſe. muſt give a warrant to levy by diſtreſſe and ſale of goods, the forfeiture of 5 s. upon or for lack of diſtreſſe, to ſet in the ſtocks or cage ſix hours, him that (contrary to the ninth branch before, *Sect.* 1.) doth execute any warrants or proces on theſe days. And ſo alſo may one Juſtice do in the puniſhment of them that (contra to the tenth branch before, *Sect.* 1.) do uſe any Choaches, Boats, &c. But in theſe four caſes the Act doth not direct to whom the warrant ſhall be ſent, nor how the offender ſhall be convicted. Wherefore (it ſeems) the warrant muſt be ſent to the conſtable of the place where the offence is done. But it ſeems to me the offender cannot be convicted but by way of Indictment at a Seſſions of the Peace: *Quere* of this; And whether the generall words of the Act of 1650. may not ſupply this defect. 6. Any

Officers. one Juſtice may and muſt alſo give a warrant to the High Conſtables of the Hundred, or other Officer where the offence is committed, to levy by diſtreſſe and ſale of goods, the 20 s. forfeiture upon Officers neglecting their duty (contrary to the eleventh branch before, *Sect.* 1) but heres no direction how the Officer muſt be convicted; wherefore we take it, this muſt be alſo by Idictment, and cannot be other wiſe. 7. Any one Juſtice of Peace, may and ought upon good cauſe ſhewed, to give licenſe to any one to travell in, and with a Coach, Horſe, or Boat, contrary to the ſaid tenth branch before;

or

or to be in an Inne or Taverne, or to grind corne in a Mill contrary to the ſaid ſeventh branch before, or to come later to, or go ſooner from his Inne on the Saturday night, or Munday morning, contrary to the ſaid eigth branch. 8. Any one Juſtice may and muſt give warrant to ſeize, ſuppreſſe, and publickly burn ſuch books as they find written againſt the morality of the fourth Commandment, or to countenance the profanation of the day. 9. Any Juſtice may, if he ſee cauſe, give to the Informer a third part of the forfeitures of 3 s. 4 d. and 5 s. and 12 d. to be levied upon him that is preſent at, or doth keep or uſe unlawfull ſports, upon the ſecond branch before; and of the forfeiture of 20 s. to be levied on Carryers, Drovers, &c. And of the ſix ſhillings eight pence to be levied on *Butchers* on the third branch, and of the ten ſhillings for travelling, and five ſhillings for carrying of burdens, and doing worldly work on the ſixth branch. 10. The Lord Major of *London*, and every Juſtice, may and muſt take a ſpeedy and effectuall courſe by ſuch means as they think fit, to reſtrain the offences aforeſaid: *ſed quere*, What power is given by this clauſe; for I do not conceive that it doth give any further power then what is before given. 11. The Juſtices are to take order that rogues, vagabonds and beggars, do on this day repair to ſome Church, and there continue ſoberly during the divine worſhips. 12. They are alſo to take a ſtrict account of the obſervation of theſe things every month. *Stat.* 1 *Car.* 1. 3 *Car.* 1. *Ord.* 6. *April* 1644. *Act.* 19 *Aprill* 1650. Chap. 4.

CHAP.

Chap. V.

Againſt Swearing.

As touching this, theſe things are to be premiſed: 1. The former Act is repealed. 2. Every one that ſweareth is to forfeit for the firſt offence as followeth: The Lord, and all above him in degree, xxx s. the Baronet or Knight, xx s. the Eſq; x s. the Gent' vi s. viii d. Any other man or woman, ſingle or married, iii s. iiii d. and for every offence afterwards twice as much. And for the tenth offence (being proved by verdict or confeſsion) he is to be bound with ſureties to the good behaviour for three years. And for lack of payment, or giving ſecurity to pay it, and diſtreſſe to levy it, if he be above twelve years old, he is to ſit by the heels in the ſtocks three hours for the firſt offence, and ſix hours for every offence after; If under twelve years, he is to be whipped by the Conſtable, or Maſter, or Father, in his preſence. 3. Swearing after the Surety for the good behaviour given, is a breach of the bond. 4. Any Officer, Conſtable, Church-warden, or Overſeer of the poor, may, *ex officio*, that heareth it, bring the Offender to a Juſtice to be puniſhed. 5. Any other perſon by warrant of a Juſtice, may bring ſuch perſons before the Juſtice. 6. The Juſtice may keep a record of the conviction, and certifie it to the next Seſsions. 7. He that is ſued for doing any thing on this law, may plead the generall iſſue; and if it go with him,

him, shall recover treble costs. Any one Justice of Peace may, 1. send his warrant to bring the offender before him. 2. May upon hearing, confession, or oath of one witnesse, by his warrant (which it seems, may be made to any Officer or others) levy by distresse and sale of goods and chattels, giving back the overplus of the summe forfeited. 3. And for lack thereof, or surety given to pay it, he may give his warrant to the constable to require the corporall punishment aforesaid to be done. *Act.* 22 *June* 1650.

Cap. 6. The power and duty of the Justice of Peace herein out of Sessions.

Chap. VI.

Of Disturbing a Minister.

ANy Justice of Peace, upon complaint, may commit to safe custody for six days, him that maliciously disturbeth a Minister in doing divine Service; him that shal procure this disturbance, and him that shall rescue such a Disturber, being apprehended. But there must be two Justices of Peace to joyn in the examination of the offence, and they must do it within the six days. And these upon the parties confession, or oath of two Witnesses, may commit him to Gaol for three months, and till the next Quarter Sessions, 1. *M. Sess.* 2. *chap.* 3. But some doubt of the continuance of this Law, and think it to be repealed by 1. *Eliz.* 21. The better opinion is, that it is in force, and doth continue.

The Office and power of the Iustices herein out of Sessions.

CHAP.

Chap. VII.

Of depravers of the Sacrament.

The duty and power of Justices of Peace herein out of Sessions. Bayl.

There must be three Justices of Peace, *Quorum unus*, to take Information upon the oath of two persons, against him that doth deprave, or speak unreverently of the Sacrament of the Lords Supper. And to bail the offender: and to bind the Accuser and Witnesse in five pounds a piece to give evidence at the day of Triall. And this it seems they may do out of Sessions, 1 *Edw.*6.1. 1 *Eliz.*1. *Dal. J. P.*49.

Chap. VIII,

Of Popish Priest and and other Papists and Recusants.

The power and duty of the Justices of Peace herein out of Sessions.

If any *Agnus Dei* be discovered to the Justice of Peace, he must acquaint one of the Privie Councel with it within fourteen dayes, *Sub pœna Premunire.* 13. *El.* 2.

If any Jesuit or Priest be made knowne to him, he must acquaint one of the Privie Councel with it within twenty and eight days, *sub pœna* 200 Marks. 27. *El.* 2.

And one Justice of Peace may require a Popish Recusant, within three months after his conviction

conviction, to ſubmit and declare his conformity to the laws of Recuſants; and in caſe he do not, he may (if it be not a *Feme Covert*) require him to abjure the Realm: but the Abjuration muſt be at the Quarter Seſſions. 35. *El.* 1. 21. *Jac.* 28. Cap. 8. *Feme Covert.* Abjuration. Q. Seſſions.

Yet a Popiſh Recuſant may abjure before two Juſtices of Peace by 35 *Eliz.* 2. So the Juſtice may within three dayes after the thing done, take Information of Maſſe ſaid, 3. *Jac.* 5. Maſſe.

But there muſt be two Juſtices of Peace to require a Popiſh Recuſant above ſixteen yeares old, which ſhall travell above five miles from his dwelling without licence, if he have leſſe then twenty Marks free-hold *per annum*, or fourty pounds in goods, to conforme in three months, or elſe abjure. And this he muſt certifie to the Aſſizes, 35. *Eliz.* 2. So that there muſt be two Juſtices of Peace to do theſe things following, *viz.* To examine one ſuſpected to be a Jeſuit or Prieſt that refuſeth to anſwer directly, and to commit him to Gaol without bail till hee do ſo. 35 *El.* 2. To give an oath to a Recuſant licenſed by him and three others, to travel. 3. *Jac.* 5 To ſearch their houſes, who, or whoſe Wives are Recuſants, for Popiſh Books and Reliques, and burn them, or if they be of value, deface and reſtore them. To take the ſubmiſſion of one reconciled to the Pope, within ſix dayes after his return, 3. *Ja.* 4. And there muſt be two Juſtices, *Quorum unus*, to commit to priſon a *Feme Covert* Recuſant, not conforming in three months, unleſſe her Husband will pay ten pounds a month, or the third part of his Lands. 7 *Ja.* 6. Certificat. Ieſuit. Commitment. Bail. Oath. Popiſh Books. Recuſant.

See

Cap. 9. See more in *Dalt. J. P.* 130, 131, 132. *&* *Stat.* 35. *El.* 2. 27. *El.* 2.

CHAP. IX.

Of Felony.

Sect. 1. The power and duty of Iuſtices of Peace herein out of Seſsions. Hue and cry. Search.

Sect. 2. Arreſt.

Sect. 3. Examine

IN all Caſes of Felony done, whether it be greater or leſſer Felonie, any one Juſtice of peace may 1. cauſe Hue and crie, Search and freſh ſuit to be made for the Felon by all Sheriffs, and other officers, and others, 1. *&* 2. *P. & M. c.* 13. 1. *&* 2. *Phil. & Mar. Cap.* 10, *Dalt. J. P. Cap.* 20. 2. Cauſe to be arreſted and impriſoned ſuch as are ſuſpicious. *ib.* 3. Examine (when they are brought before them) and the witneſſes againſt them, and thereby inform himſelfe of the fact and circumſtances thereof. As, 1. The party offending is to be examined without oath. 2. The party offended, robbed, *&c.* and witneſſes, are to be examined upon oath. And he muſt ask the party robbed if he know the thiefe. For without oath they are not to be given in evidence. And although any man, how mean ſoever, may be allowed as a competent witneſſe, yet ſome heed is to be given to the witneſſes, according to the old verſes:

Conditio, ſexus, ætas, diſcretio, fama,
Et fortuna, fides in teſtibus ipſa requires.

3. In the examination of the witneſſes againſt offenders, and of offenders themſelves, theſe things are conſiderable, and accordingly the queſtion

queſtion to be made to diſcover the cauſes of ſuſpition, 1. Of the name of the perſon ſuſſpect; if he have not two names, or do not uſe to change his name. 2. His quality. 1. His parentage, what they were. 2. His ability of body; if he be likely to do ſuch a thing. 3. His nature; if it be inclinable to ſuch a thing. 4. His eſtate; if he have an eſtate, or be needy. 5. His life; if idle, drunken, &c. if he ever did any ſuch thing before. 6. His company; if it be ſuſpicious, 7. His repute; if of evill or good name. 3. Of the Marks or Signes. 1. If any blood, if it be a man ſlain, be about him; any of the goods, if it be goods ſtollen, or any of the goods of the man ſlain be found with him. 2. If he bluſh, or change his countenance, look downwards, is ſilent, or trembleth when he is examined. 3. If his anſwers be falſe, doubtfull, repugnant, or idle. 4. If he hath offered an agreement, deſired his neighbours not to ſpeak of it. 5. The meaſure of his, or his horſes foot. 6. The bleeding of the dead body in his preſence. 7. If he flie, or lie hid, and obſcure. 8. If he be the firſt that doth find the party murthered, and ſome other ſuſpicious ſignes accompany it. 4. Of the time and place, when and where it was done, and where the perſon ſuſpect then was. And of theſe and other circumſtances, the examination is to be made, *Dalt. Juſt. of P.* 373. 5. It is good to let the witneſſes ſubſcribe their names to the Examinations. 6. The Examination of one not able to come to the Aſſizes, may be taken by a Juſtice of peace, and certified thither, 27. *El.* 13. *Dalt. J. P.* 48. 7. He that confeſſeth a Felony, may accuſe o-

Cap. 9.

thers

Chap. 9. thers thereof, *Dalt. Juſt. P.* in *cap.* 3.

Sect. 4. 4. Within two dayes after the Examination taken, he muſt put ſo much of the ſame as is materiall to prove the Felony, into writing. 5.

Certificate. Certifie it with the Recognizances for bail and proſecution, to the next Goale-delivery, or Quarter ſeſſions, as the caſe is: wherein theſe things are to be known. 1. If it be a greater Felony to be determined at the Goal-delivery, then it muſt be certified thither. 2. If it be a

Bind over. Petit Larceny, or other ſmall offence, he may bind over the Informer, and certifie the Examination to the Quarter ſeſſions, where the Juſtices may, and ought to determine it. 3. If

Certificate. it be a greater Felony, which they have power there to determine, it may be certified thither alſo. 4. The whole caſe is to be certified; as well that which may clear, as that which may accuſe him, *Dalt. J. P. fol.* 63, 64. *Cap.* 3. *fol.* 411. Yet it is held that a Juſtice of peace regularly is not to record [and then to certifie] the evidence that is given againſt the Keepers of the liberty, *Dalt. J. P.* in *Cap.* 113. 5. Examinations taken by Juſtices of peace in one county, may be certified and uſed in another County, *Dalt. J. P. fol.* 370.

Sect. 5. 7. Either he muſt baile the Felon, if he be

Bail. bailable. But 1. To bail a Felon, there muſt be two Juſtices of peace, *Quorum unus*, preſent to do it. 2. Then it muſt be certified with the Examinations.

Sect. 6. 8. Or if not, he muſt ſend him with a *Mit-*

Mittimus. *timus* to Goal, *ib.* The next thing here to do is

Sect. 7. 9. To bind over the party abuſed, robbed, *&c.*

Bind over or Informer, to proſecute effectually, and witneſſes that can ſay any thing materiall, to the

next

next Quarter seſſions, or Gaol-delivery, (as the case is) to proſecute and give evidence; and the Partie grieved it is beſt to bind to preferre a bill of Indictment, as well as to give evidence. 1. This bond muſt be alſo certified with the Examinations and bail bonds, if there be any, to the Gaol-delivery or Quarter ſeſsions. 2. If the party robbed, *&c.* refuſe to be bound, he cannot recover of the Hundred. 3. If any materiall witneſſe refuſe (being required by the Juſtice) to be bound to give evidence, he may ſend him to Goal, or bind him to the good behaviour. But if he can give no materiall evidence, *contra.* 10. If the caſe be Homicide *ſe defendendo*, or by an Infant, or the like, or the Juſtice of peace have no evidence againſt the Felon, or the witneſſes be ſuſpicious, or the like; Yet if there be a Felony committed, and the Party be at all ſuſpicious, he may examine him, and ſhall do well to bind him over; for though the caſe be never ſo clear for matter of fact, yet it ſeems not ſafe for a Juſtice of peace to diſcharge him without bail, for happily more Evidence may come in; his beſt way will be therefore to get him bailed, and make the caſe known to the Judges. But if the caſe be clear in point of Law, as where the Felony charged upon him is for ſtealing a Grey-hound, or the like, which is no Felony, there happily the Juſtice may diſcharge him, and not bind him over, *Dalt. J. P. fol.* 367, 368.

Cap. 9.

Certificat.

Commitment.

Good behaviour.

Sect. 8.

Bind over.

Diſcharge.

Bail.

11. It is doubted, (however the practice be) that a Juſtice of Peace cannot juſtifie, upon a bare ſurmiſe, except it be where one Felon

Sect. 9.

Cap. 9. doth accuſe another before an Indictment be found, to arreſt a man for Felonie, or break any mans houſe to ſearch for a Felon or ſtollen Goods. And after the Indictment, it muſt be in open Court, for it is in the nature of a *Capias*. But this he may do ſince 1, & 2. *Ph. & M.* 13. and 2, & 3. *Ph. & M.* 10. When any man is charged, and the Juſtice hath taken examination, he may grant his Warrant to the Conſtable of the place to ſee the Kings Peace kept, in the taking and bringing of the Offender before him, and then the party that giveth the information, and doth ſuſpect, hee is to arreſt the Offender; which done, he may either carry to a Juſtice of Peace or conſtable, or to Gaol at his choice, *Cook* 4. *Part of his Inſt. fol.* 177.

Arreſt.

Search

Sect. 10. And yet the contrary is practiſed, and ſeems neceſſary at this day, for conſtables are ſo ignorant and fearfull, that they dare not do any thing without the Juſtices warrant. Beſides, when the Juſtice of Peace hath information upon oath before him, he hath good cauſe to ſuſpect, and ſo may proceed upon his own ſuſpicion. *Dalt. J. P.* 4-375, 376, 407, 408. 374. And however, the Officer upon the Juſtice of Peace warrant is excuſed.

Sect. 11. 12. The Juſtices of Peace cannot (out of Seſſions) puniſh Petit Larceny by their diſcretion (as ſome have thought) but muſt bind the offender over, and they muſt be tried and quit at Seſſions, *Dalt. J. P.* in *Chap.* 101. What is Felony, ſee in the Seſſions charge.

Petit Larceny.

Bind over.

Seſſions.

CHAP.

CHAP. X.

Of the Peace.

Sect. 1. FOr the opening of this point, theſe things muſt be knowne, 1. The Peace is a quiet, friendly and harmleſſe behaviour towards the Keepers of the liberty and the people, which is required of all. 2. Hee that breaketh this, breaketh the Peace. But moſt properly, hee that offereth any actual or injurious force is ſaid to break the Peace. 3. All men are bound to endeavour to keep it between others, and to ſuppreſſe the breach of it. 4. Divers Officers have an eſpeciall charge annexed to their Office to look to it.

Sect 2. The power and duty of the Juſtice of Peace herein out of Seſſions.

The Juſtices of Peace have power to prevent offences againſt the Peace before they are done, and to puniſh them after they are done. For they are to ſee the Peace kept, and for that purpoſe to ſee the Laws made for the preſervation thereof executed, require Sureties where they fear it, pacifie ſuch as begin to break the Peace, arreſt affrayers, &c. ſuch as break the Peace before them, or upon themſelves or others, and ſend them to Gaol, unleſſe they give Sureties to keep the Peace, which they may require of them. And if any one be dangerouſly hurt in the affray, ſend him to priſon that did it. And 1. All this any one Juſtice of Peace may do. 2. Whatſoever any other private man, or officer may do for the keeping of the Peace, a Juſtice of Peace may much more do, *Dalt. J. P.* 4. 41. 42.

Arreſt.

Commitment.

Cap. 10. *Sect.* 3. 3. Any Justice of Peace that hath any cause to suspect the breach of the Peace in any place, may send his warrant to the officers, or others, there to take care to prevent it, *Cook* 4. *Part* of his *Inst.* 177. 14. *H.* 8. 16. 4. Any one Justice of Peace may take away the Armes, and imprison such as he seeth to be riotously assembled, or go armed, that wear coats of Mail secretly, or carry Dags or Pistols; or he may enquire and prize the armour by a Jury, *Cook* 5. 71. *Dalt. J. P.* in *Cap.* 9. So he may command the arms to be taken from such Prisoners as are taken and brought before him, *Dalt. J. P* *f.* 42, 43.

Sect. 4. Commitment.

Armour,

CHAP. XI.

Of Watch and Ward.

Sect. 1. IN this these things are to be known, 1. None but Inhabitants of the same Town are compellable to watch or ward. 2. It must be by men of discretion, able bodies, and sufficiently armed. 3. It must be by turn or by the house; according to the custom and use of the place. 4. The Constable *ex officio* is to order it, and he may enlarge it as there is occasion, but he cannot change the course of it at his pleasure, and make some watch, and excuse others. 5. If any neglect or refuse to do his duty, the Constable may present this default at the Assizes or Sessions, or complain of it to a Justice of Peace.

Constables

And

And some hold, the Constable may put him in the Stocks for his contempt. 6. This watch is from *Ascension* to *Michaelmas*, and must be from Sun to Sun; and the warding then (in congruity of Reason) must be the rest of the twenty and four hours of the day. 7. These watch and Ward-men are to pose all men, to arrest and secure till morning Rogues and others suspicious, and them to bring to a Justice of Peace to be examined. *Dalt. J. P. Ch. 60. Winch.* 13. *Ed.* 1. 4. 5. *Ed.* 3. 14. Or if they will, they may deliver them to the Constable, who must take care of them. And if any resist them, and go away, they may send Hue and cry after them; and upon this any man may arrest them. 8. For default of this watch and ward, the township may be punished. Cap. 11. Stocks.

Sect. 2. The power and duty of the Justices of Peace herein out of Sessions.

Any one Justice of Peace may set this watch between *Ascension* and *Michaelmas* for the arresting of suspicious Persons, *Winch.* 13. *Ed.* 1. and he may direct the manner of it. Also hee may, if he see cause, appoint warding by day for the apprehending of Rogues, *Dalt. J. P. Ch.* 50. *Resol.* of the *Judges*, *temp. Car.* And it seems reasonable then, that if Officers or others neglect it, that the Justices may require a conformity; and if they refuse or neglect, may bind the offenders to the good behaviour at the least, otherwise the service will not be enforced.

Chap. XII.

Of Night-walkers.

The power and duty of the Juſtices of Peace herein out of Seſſions.
Arreſt.
Good Behaviour.

Any one Juſtice of Peace may cauſe ſuch perſons, ſtrangers or others, that are ſuſpicious, that ſleep by day, and walk by night; eſpecially if they haunt lewd houſes, or keep lewd company, or commit out-rages; to be arreſted, and force them to give Surety for their good behaviour. 13. *H.* 7. 10. *Dalt. J. P. in Ch.* 35.

Chap. XIII.

Of Forcible Entry, &c. Unlawful Aſſemblies, &c.

Sect. 1. Force.

It is an offence by which unlawfull violence is uſed to Perſons or things: and this is either implied, as in every Treſpaſſe, *Reſcous* and *Diſſeiſin*, there is a Force implied in Law; or it is actual with Weapons, number of Perſons, &c. which alwayes carryeth ſome fearfull ſhew or matter of terrour with it. The actual Force alſo is either ſimple, when it is joyned with no other crime, as entry into lands onely; or compound, when it is mixt with ſome other Fact, which of it ſelfe is criminall. As if any by force enter into anothers Poſſeſſion, and

and kill a man, or raviſh a woman there, &c. Cap. 13.

A forcible entry is a violent and actual entry into any lands, houſes, &c, or taking of any diſtreſſe by any perſon weaponed, whether he offer violence, or fear of hurt to any there, or furiouſly drive out any out of the poſſeſſion thereof. And ſometimes it is taken for a writ grounded upon the Statute. *Sect.* 2. Forcible Entry.

A forcible Detainer is a violent Act of reſiſtance by a ſtrong hand, of men weaponed with harneſſe, or other action of fear, in the ſame place, or elſewhere, by which the lawfull entry of Juſtices or others is barred or hindred. *Sect.* 3. Forcible Detainer.

The Statutes of 5 R. 2. 7. 15. R. 2. 2. 8. H. 6. 9. give charge, that none ſhall enter into any Lands, but where entry is given them by Law, and then in a milde and a peaceable manner. And that none ſhall enter into or hold a Poſſeſſion of Lands with a ſtrong hand, and with force. For the opening whereof we muſt know, 1. That one or more may commit this offence. 2. An Infant or a *Feme Covert*, by their own act may commit a forcible entry or detainer: But they cannot do it by commandment, as another man may do. 3. Where divers do come in a company to do this act, and one of them onely doth uſe the violence, they are all guilty. But herein we muſt take this difference, where divers come together in one place to do an unlawfull thing, and one only doth it, and the reſt ſtand by, and do nothing; in this caſe they are all guilty as principall doers, and the act of one ſhall be ſaid to be the act of all. So that if divers come to enter into Lands, where their entry is

Cap. 13. not lawful, and all of them but one do enter and demean themſelves peaceably, and hee onely doth enter with force, and after entry doth hold with violence; this, albeit it be againſt their wils, is a forcible entry. And ſo it ſeemeth to be, where ſome of them do come without an evill intent, if they come together, or if they come after, and be aiding and countenancing to the Offenders. But when divers come together to do a lawfull Act, as to diſtrain for Rent due, or the like; and in that caſe, ſome of them, without any intent before, or allowance or countenance then by the reſt, eſpecially if they diſcountenance it, fall to outrage, and commit this or the like offence; in this caſe it ſeems, the reſt are not guilty. 4. A man ſhall not be guilty of this offence by any counſel or command before, or agreement after, unleſſe he be preſent at the act done. 5. Though the King, or his tenant could not be outed of their Poſſeſſion, yet this offence may be committed in this Land, and then is puniſhable as in other caſes. 6. Though he get no Poſſeſſion hereby, yet it may be this offence, and puniſhable. 7. This offence may be committed about a rent, when one doth diſtrain with force, bee the rent due or not, or when one is coming to diſtrain, and the Tenant doth threaten to kill, or forcibly reſiſt him, foreſtall the way, or reſcue the diſtreſſe, or the like; ſo about a Common, as when one doth forcible keep his Cattel where he hath no Common, or forcibly reſiſt another man that hath Common. 8. The expreſſe force is that which is forbidden, when it is either with multitude, (*i.*) a greater company

ny then ſuch perſons have uſually attending on them: yet one or two, if they bee armed, *&c.* may commit this offence. Or it is with ſtrong hand (that is) with apparent violence: In word, by threatning ſpeeches, as to ſay, they will keep the Poſſeſsion if it coſt them their lives, or in ſpight of the other being in with him; or if he threaten to kill or hurt the bodie of him that is in, if he will not go out; or out, if he offer to come in; eſpecially if this make them to go out, or keep off. Or deed; by turbulent behaviour, or actual violence offered to the perſon of another: Or elſe that they be furniſhed with ſome Weapons by them not uſually born, as Swords, Bucklers, Pikes, Javelins, Bills, Clubs, Pitchforks, Staves, Halberts, Bowes and Arrowes, Croſs-bowes, Guns, Harneſs, Armor, or the like: or by caſting of ſtones, blocks, pouring of hot coales, ſcolding water, or lead, or with any other thing wherewith one may hurt the perſon of another: and therefore if any enter thus; though no man oppoſe them, this is a Forcible entry; much more, if being entred they there offer any violence or fear of hurt to the perſon of another that is in poſſeſsion with him; and moſt of all, if he ſhall furiouſly and forcibly expell and drive another out of the poſſeſsion: for if one enter in at the door, being open, peaceably, but then he doth forcibly put out them that he finds in poſſeſsion, this is a Forcible Entry. If a man have a force laid in another houſe by the place, this may make him guilty of this offence of Forcible Detainer. So if a man after his peaceable Entry, get more Weapons into the houſe then were there, or uſually Cap. 13.

Cap. 13. uſually he doth bear; or if he make uſe of the weapons in the houſe, to defend his poſſeſſion: but the having of them there, if they were there before, is not a force puniſhable. 9. If any Juſtice of Peace come to view the force in a houſe, and they refuſe to let him in, this of it ſelfe is a forcible detainer in all caſes, though it be but by one perſon, and no weapon ſhewed. So if he find any multitude of perſons, armes, or the like. So if the Diſſeiſor foreſtalleth the way of the Diſſeiſed with force, that he dare not come near: But to refuſe to open the doors to the other party, is no forcible detainer. And if I be in poſſeſſion of a houſe, and another that hath more right would enter, I may keep him out with my ordinary company and weapons, but not otherwiſe, for fear of the guilt of a Forcible detainer. But if my eſtate and poſſeſſion be lawfull, and I or my Anceſtors have peaceably enjoyed it for three years together before the Indictment brought, if ſo my entry were peaceable, not forcible, and I have continued three yeers poſſeſſion peaceably and without force, I am in poſſeſſion by right, and of a lawfull eſtate, and not by wrong; and I have continued this poſſeſſion all theſe three yeers without interruption, and not diſ-continued, and my eſtate is not ended; in theſe caſes, it ſeems, I may keep my poſſeſſion with force, and this is no forcible Detainer, which by plea to the Indictment will avoid Fine, Impriſonment, and Reſtitution. But to threaten a man, that if hee come to enter, he will burn his houſe, or ſpoil his goods therein: To cut trees upon the land, or carry goods

out

out of the house after a man hath entred, the door being open, or onely latched, to enter without multitude or offensive weapons: So by fair means to perswade or intice any body out of the house, or by that meanes to keep them out; to take a man being out of the place and imprison him, and in the meane while to send one to enter into the Land or House, or to deny to go out, and by Imprisonment keep him out; these things will not make a forcible entry or detainer: and therefore if in these cases the other side make a forcible entry upon them, they may be put out againe. 10. Though the party ousted be dead, that no restitution can be made, yet the forcible entry shall be punished. 11. If one enter into a house or land with an intent to cut or carry away his goods or corn, &c. or the like trespasse, though he do not put him hereby out of possession; this will be a forcible entry punishable by these statutes, if it be with strong hand, or with multitude. 12. So if any enter peaceably, and after entry, by force do any such act. 13. To detein a house mortgaged by force from the Mortgager, is a forcible detainer. 14. To go over the land with force or multitude to another place or end, is not a forcible entry. Nor is the force that is used with the Warrant, and in the maintenance of the law, any offence within these Statutes, but lawfull. So is the force used in the apprehending of Felons, by Sheriffes and other officers, in executing Writs, and in doing their office, in keeping the Peace, in defence of my person and house, and the like: *Dalt. J. P. cap. 22. 76. Poulton de pace 34, 35, &c. Cook 8. 120.* Cap. 13.

The

Cap. 13.

Sect. 5. The power and duty of the Juſtices of Peace herein out of Seſſions.

The Partie grieved by a forcible Entry or Detainer, may be relieved, and the Offender puniſhed divers wayes, (amongſt others) by the help of the Juſtices of the Peace, who may do it upon the Statute of *Northampton*, which is in the nature of a Commiſſion, wherein they proceed as Miniſters onely, or by Indictment upon 8 *H.* 6. at the Quarter Seſſions, which being found there, the party ſhall be reſtored to his poſſeſſion by a Writ of Reſtitution from the Court to the Sheriff, *Dier* 187. *Crompt. I.P.* 165. But the moſt ſpeedy and common remedy is, by complaint to one or more Juſtices of Peace, who may thereupon go to the place where the Force is, and if it be in an houſe, he may enter and ſearch, and if any force of Armour or Weapon be worn or born againſt this Statute, and if any ſuch offenders be found, he may commit them to priſon, and may ſeize, and preiſe the armour ſo found with them; and he ought to record all that which he ſhall do in this behalfe, and thereout to ſend ſome Eſtreat into the Exchequer, that the Common-wealth may be anſwered of the Armour or of the value thereof. But here againe, the Juſtice muſt not make any Reſtitution to the partie outed, but muſt only remove the force. And concerning the offenders ſo found and committed by the ſaid Juſtice of Peace: It ſeemeth the Juſtice (at his diſcretion may fine them, and upon payment thereof, or Sureties found for the ſame, the ſaid Juſtice may deliver the offenders, even as in the former Statutes of 15. *R.* 2. & 8. *H.* 6. Or elſe the ſaid Juſtice may record ſuch force, and commit the offenders, and after certifie the Record

View.

Commitment.

Record.

Reſtitution.

Fine.

Certificate.

Record in the upper Bench, or to the Juſtices of the Gaol-delivery, or to the generall Seſsions of the Peace: or elſe the ſame Juſtice or Juſtices of the Peace may proceed otherwiſe: for every Juſtice of Peace upon complaint to him made, or upon other notice to him given of any Forcible Entry into, or holding, or Detainer of Poſſeſsion of any Lands, Tenements, or other poſſeſsions (or of any Benefices or Offices of the Church) contrary to theſe Statutes, without any examining, queſtioning, or ſtanding upon the Right or Title of either party, may and ought in convenient time (at the coſt of the party grieved) to do execution of the Statutes aforeſaid in this manner. 1. He ought to go to the place where ſuch force ſhall be. 2. He may take with him ſufficient power of the County or Town by his diſcretion, and the Sheriffe alſo, if need be, to aid him, for the better execution of his buſineſſe, as well for the arreſting of ſuch offenders, as alſo for the removing of the Force, and for the conveying of them to the next Gaole. 3. He ought to arreſt and remove all ſuch offenders as at his coming he ſhall ſee or find continuing the Force, and may take away their Weapons, Harneſſe, and Armour, and preſently cauſe them to be preiſed, and after to be anſwered to the Common-wealth as forfeited, or the value thereof. And if the doors be ſhut, and they within the houſe ſhall deny the Juſtice to enter, it ſeemeth he may break open the Houſe to remove the Force. But if ſuch offenders being in the houſe at the coming of the Juſtice, ſhall make no reſiſtance, nor make ſhew of any force; then

Cap. 13.

View.

Arreſt.

Armour.

Cap. 13. then the Juſtice cannot arreſt or remove them, except upon the enquiry a Force be found. And if the houſe or land which is holden with force, ſhall extend into two Counties, and the offenders move their force into that part of the houſe or land, which is in the other county, when the Juſtice doth come, he cannot then remove the force. 4. He ought to make a Record of ſuch Force by him viewed: And this Record ſhall be a ſufficient conviction of the offenders, and the parties ſhall not be allowed to traverſe it. And this Record (made out of Seſſions by a particular Juſtice) the ſame Juſtice may keep by him, or he may make it indented, and certifie the one part into the upper Bench, or he may leave it with the Clerk of the Peace, and the other part he may keep himſelfe. 5. He ought to commit immediatly to the next Gaol, all ſuch perſons as he ſhall find and ſee continuing the Force at his coming to the place; the ſaid offenders there to remain convict by his own eye, teſtimony, and record, untill they have paid a Fine to the King: For this ſight and view of the Force by the Juſtice, (being a Judge of record) maketh his record thereof (in the judgement of the Law) as ſtrong and effectuall, as if the offenders had confeſſed the Force before him, and (touching the reſtraining of the traverſe) more effectuall, then if the Force had been found by a Jury upon the evidence of others. But the Force muſt be in the preſence or view of the Juſtice of the Peace, or elſe he can neither record it, nor yet commit the offenders: for upon force found by enquiry onely (although this pre-

Record.

Traverſe. Certificate.

Commitment.

Enquiry.

presentment of the Jury be a conviction of the offenders) it is thought the Justice of Peace can neither fine nor send to Gaol. But however, he is to remove the offenders that be present, that so he may restore the other, and may bind the offenders to their good behaviour. And if they be gone, yet he may make his warrant to take them, and send them to Gaol untill they have found sureties of their good behaviour. 6. The same Justices of Peace, or some of them that shal see the Force (as having best knowledge of the matter, and of the quantity of the offence, and having the custody of this Record) are the proper Judges over this offence, and therefore may assesse the Fine upon every such offender. But the fine must be imposed upon every offender severally, and not upon them joyntly. And the Justice ought to estreat the same fine, and to send the Estreat into the Exchequer: and that from thence the Sheriffe may be commanded to leavy the said Fine to the Common-wealths use. But upon the same fine so assessed and estreated, it seemeth the Justice is to deliver the offender. Also upon paiment of the said fine to the Justice, or upon sureties bound by recognizance for the payment thereof, the Justice may deliver the offenders again out of prison at his pleasure, by some opinions. But *quære*, for that the Sheriff is accomptant for all fines. Or the Justice of Peace (by some opinions) may record such force, and commit the offenders, and after certifie the Record to the Justices of Assize and Gaol-delivery, or else to the generall Sessions of the Peace, and there the offenders may be fined.

Good behaviour.

Commitment.

Fine.

Estreat.

Cap. 13. fined. For the Statute doth not ſay, that the Fine ſhall be aſſeſſed by them that record the force; but rather the Juſtices of Peace may certifie or deliver the record by them made, and referre the fine and further proceedings therein, to the upper Bench, which is thought to be the ſafeſt courſe. 7. Alſo the Juſtice of Peace, notwithſtanding his own view of the Force, may and ought in ſome good Town or place near where the force was, to enquire by a ſufficient Jury of the ſame County, to be returned by the Sheriffe, as well of thoſe which made ſuch forcible Entry, as of thoſe which made ſuch forcible detainer, wherein theſe things muſt be obſerved. 1. That one Juſtice of Peace alone out of the Seſſions, may make an Inquiry; whereas otherwiſe to hold a Seſſions, there muſt be two at the leaſt, and one of them muſt be of the *Quorum*. 2. This Inquiry may be made, whether the offenders be preſent or gone, at the coming of the Juſtice of Peace. 3. This Inquiry may be made albeit the Juſtice of Peace go out to ſee the place where the force is. 4. This Inquiry muſt be made by men of good eſtates. And therefore the Juſtice of Peace is to ſend his Warrant to the Sheriff, to command him in the behalfe of the Keepers of the liberty to cauſe to come before him four and twenty ſufficient and indifferent perſons, near about the place where the force is ſuppoſed to be; and every of them ſo returned, muſt have forty ſhillings by the year at leaſt, in Lands and Tenements. And the Sheriffe is to return Iſſues upon every man ſo ſummoned, the firſt day twenty ſhillings, the ſecond day forty ſhillings, and the third day

Inquiry.

Warrant to the Sheriffe.

day fifty shillings, and at every day after double. And upon default of appearance of the Jurors, the Justice may grant an *Alias*, and after that, *Pluries* infinite till they come. And if any Sheriffe, or Bailiffe of Franchise, that hath the return of such writ, shall be negligent, he shall forfeit twenty pound. But if such Jurors have not forty shillings land *per annum*, yet their presentment of such Force, is good for the Common-wealth, so as the Offenders shall fine therefore. And if the Sheriffe return smaller Issues upon the Inquirers, then the Statute doth appoint, yet the party indicted, shall not impeach the inquiry thereof; but these defaults in the Sheriffe, for not returning sufficient men, may be punished by the Justices of Peace, who may hear and determine these offences by Bill or Indictment, wherein shall go the like processe as against men indicted for trespasse. 5. It is convenient upon such Inquiry, that the evidence be given openly to the Jury, to the intent it may appear to the Justice of Peace, or Court, whether there be reasonable cause to stay Restitution, or not, after the Indictment found. 8. If upon such Inquiry, such forcible Entry, or such forcible Holding, or Detainer, shall be found by the oathes of the Inquirers, then the said Justice of Peace shall release the Lands and Tenements so entred upon, or holden, and thereof put the party in possession again, which in such sort was put, or holden out. As touching which point these things are to be known: 1. Any one or more Justices of Peace, before whom the Force is found, and not any other Justice of Peace in or out of Ses-

Restitution.

Cap. 13. sions, Justices of *Oyer* or *Terminer*, or Gaol-delivery, may in person put the partie put, or kept out, in possession again; or may award his or their precept, under his or their own *Teste*, to the Sheriffe to do it. Also the Justices of the upper Bench, upon a certificate by the Justices of Peace of the Force found before them, or upon removall of the Indictment by *Certiorari*, may by warrant to the Sheriffe, not in person, award Restitution. And to do this, the Justice or Sheriffe may break open any house, and take *posse Comitatus*; and if the Sheriffe return, he cannot do it for resistance, he will be amerced. 2. The restitution must be made to him that is put out, not to his Heirs, Executor, or any other after his death, but the parties in this case may be fined and imprisoned. *Cook. 3. part. of his Instit. fol.* 242, 243. 3. No restitution shall be made, but where the forcible Entry, or Detainer is first found by Inquisition, and that upon sufficient Indictment also. For if the Indictment or Inquisition be quashed for insufficiency, no restitution can be had upon it. For this cause the Indictment must expresse, 1. A putting out *Expulerunt*. 2. The quality of the thing entred into, as Messuage, Cottage, *&c.* Therfore they entred the tenement, is void for incertainty. 3. A keeping out, it must say, Yet they keep out. 4. It must be with strong hand, or with multitude, except it be implyed by reciting the 8. of *H. 6.* and conclude against the form of the Statute foresaid, or by some other such words. And if one be restored on an insufficient Indictmẽt, & it be removed into the upper Bench, the Court will cause the party to be restored.

Indictment.

And

And if upon an insufficient Indictment, the Justices grant restitution, before it be done, the same Justices, not others, may grant a *supersedeas* to stay it. 4. Restitution is onely where a man is put or held out of land, or the like, not out of rent, or the like. 5. The Justice may make restitution notwithstanding any offer of Traverse. Yet in this case the safest way is to send the Indictment into the upper Bench. Cap. 13. Supersedeas.

In these cases a man may alledge to stay restitution, any of these things. 1. His quiet possession for three years: For there shall be no restitution awarded in case where the party indicted hath beene in quiet possession by the space of three whole years together, next before the day of the Indictment found, if his estate be not ended. And this the party may alledge, and upon this, restitution shall be stayed by the Justice of Peace untill it be tried, if the other party will deny or traverse the same. 2. He may deliver to the Justice of Peace, or Court, a *Certiorari*, and this is a *Supersedeas* to them. And therefore if a man have committed such a force, and be in doubt that he shall be indicted thereof before the Justices of Peace upon the Statute 8. *H.6.* and that thereupon restitution will be awarded against him, he may have a *Certiorari* out of the upper Bench ready; and when the Bill of Indictment is found, he may presently deliver it to the Justice of Peace, or Court, and this is a *Supersedeas* to them; for hereupon the Indictment shall be removed unto the upper Bench. And although the Indictment be found after the *Teste* of the *Certiorari*, it is not materiall. But if a *Certiorari* *Sect. 6.* Causes to stay Restitution. Certiorari. Supersedeas. Supersedeas.

Cap. 13. *tiorari* come to remove an indictment taken before a Justice of Peace in the country, and the party wil not sue to remove it, but doth suffer it to lye stil, some think the Justice may proceed to grant Restitution. But it seems the Justices *ex officio* are to send the indictment away, because they are commanded so by the Writ, and this Writ is a *Supersedeas* of it self.

Supersedeas

And after restitution made by the Justice of Peace, if the other party do remove the indictment by a *Certiorari* of a more eigne date then is the indictment, the Justices of the upper Bench may award restitution back again: for upon the matter the Justice of Peace had no power to make Restitution, for that the *Certiorari* had relation from the date: After Restitution granted from the Sessions, and delivered to the Sheriffe, the other Party having a *Certiorari*, delivereth it also to the Sheriffe, after the Sessions the Sheriffe shall not surcease thereupon, for he hath no authority to allow thereof. But if the *Certiorari* were delivered to any Justice of Peace, he may thereupon grant a *Supersedeas* to the Sheriffe. And if Restitution were made by the Sheriff before the said *Supersedeas* came to his hand, then the other Party shall have Restitution back again in the upper Bench upon the indictment removed thither.

3 He may tender a Traverse: but some doubt whether he may be admitted to a Traverse before the same Justice of Peace. But this tender of Traverse (to an indictment of a Forcible Entrie) upon the Statute of 8 *H.* 6. is no *Supersedeas* but in discretion; so as the Justice of Peace or Court may grant or stay the Restitution

Tarverse.

on at their discretion, according as the truth of the right or title shall appear to them. And so is the use of the upper Bench. Or else the Justices of Peace before whom the Indictment was found, may after traverse tendred, certifie or deliver the Indictment into the upper Bench, and so refer the further proceeding thereof to the Justices of that Court. Cap. 13. Supersedeas

But if the Party indicted shall tender a Traverse presently, whereupon restitution is stayed, and after he shall not pursue his Traverse with effect (but dis-continueth it) and after doth tender another Traverse; upon restitution prayed, at another time, the Justice of Peace or Court shall do well to proceed to grant restitution notwithstanding such Traverse tendred. And it is the course in the upper Bench, that he that tendreth the Traverse there (upon such an Indictment) shall bear all the charges of the Triall, and not the Keepers of the Liberties; nor he at whose suit the Indictment was found. And the same Reason seemeth upon an Indictment traversed before the Justices of Peace. 4. He may shew the insufficiency of the Indictment for the causes before alledged. 5. And some have thought he may plead the insufficiency of any of the Jurors; for not having forty shillings *per annum*. And some think that the Justices of Peace ought not to stay restitution, save only in case where three years quiet Possession is alledged, or by removing the record.

The Maiors and Officers of cities having Franchise, have like authority therein as Justices of Peace have within their County. 8 *H.* 9. *c* 9.

Cap. 14. And if the Justices of Peace be negligent in their Offices upon these Statutes, they may be punished.

Chap. XIV.

Of an unlawfull Assembly, Rout and a Riot.

Sect. 1. For the better understanding of the Law in this (which hath some affinity with a Forcible Entry and Detainer) these things are to be known. 1. That an unlawfull assembly is where three or more do meet to do an unlawfull act against the Peace, as to beat down a pale, ditch, house, or the like; or to do a lawfull thing in an unlawfull manner, as to distrain for his Rent with force and violence; but they do nothing. A Rout is when they go forward (after they are thus met) in a turbulent way to effect, but do not finish it. A Riot is when they do not only begin, and go on, but finish their work. So that in these offences there must bee these things concurrent. 1. There must be three or more persons in the work, and this may bee made up of women and children of any discretion. But this offence may be committed though some of the company stand by and do nothing; for if they stand by and countenance it, it is as bad as if they did it. But if they come by chance, and intend nothing; *contra.* 2. Their Assembly that they go with, or their intent must be

Unlawfull Assemblie.

Rout.

Riot.

Sect. 2.

be evill, to do ſome hurt to men, or that which is theirs (which in ſome caſes will be preſumed :) As if the Lord with two or more Perſons enter on his Copy-holder with force, and cut and take his corn, becauſe he doth not pay him his fine; this is a Riot, and yet this entry lawfull. So, if a man make reſiſtance againſt the Sheriff, or any other in their doing of juſtice: So if two or three make a forcible entry. And this may be puniſhed both wayes. Cap. 14.

If many come together un-armed, they know not why themſelves; this is no offence puniſhable, unleſſe it can be known, they came to ſome evill intent, or they do miſ-carry themſelves in ſome evill act.

If one ride or go abroad with his Servants armed and in harneſſe, and doe no more, this is an unlawfull aſſembly, if not a Riot. But if he intending a Riot by an entry into land, or the like, go with his ordinary ſervants, who know nothing, and they do enter, this is not a Riot in the ſervants, if it be any in the maſter. To go in a privy coat of mail is not this offence.

And albeit one be threatned, and in danger of his life, and to defend himſelfe he gathers a force, and they ride about armed; this is a Riot. Yet if they did abide in his houſe; happily it may be juſtified.

But if a man do onely go abroad with his houſhold ſervants which he hath commonly in his family, though they be more then his ability to keep, this is no offence; and if they hap to make an affray, or do any unlawfull thing, this will not amount to this offence, ex-

Cap. 14. cept it can appear they had an intent before to do it, but an affray only.

The Watch in *London* on Mid-ſummer night, Aſſemblies for merry meetings, as Church-ales, Dancing, and the like; wherein there is no breach of the peace, nor terrour to the People, are not taken to be this Offence. And if there happen to be an affray at ſuch Meetings, it is not interpreted to be this Offence. But the coming to ſuch a meeting with ſuch an intent, or the taking of ſides and parts at ſuch a time, and in ſuch a caſe, eſpecially if after their parting they meet again, may amount to this Offence.

If a Jury come to try an Iſſue, and they happen to fall out and fight; this is not this offence, but an affray.

The Sheriffe and other Officers of Juſtice, in going about with Troops and Arms do not commit this offence.

Sect. 3. 3 The manner of their motion and action (if the matter be good) muſt be bad, as when it is turbulent; ſo that by their coming together they breed ſome apparant Diſturbance, either by word, geſture, or action; ſo that peaceable men are feared, or light men imboldened: for as a man may do an unlawfull thing, ſo as it may not be a Riot; ſo he may do a lawful thing ſo as to make it a Riot. And therefore if a convenient number only with convenient Tools, onely meet together to abate a common Nuſance, as where a man hath erected a Wear on a common River where the People paſs with their Boats, and they come to the place and make a Trench in his ground that did it, the better to do it, this is no offence.

But

But if in doing this they come weaponed, or in the night, or uſe threatning ſpeeches, that they will do it if they die for it, or the like, this may make it a Riot. So if I claim a piece of Timber, and another hath better Right to it then I have, and I take a convenient number of Perſons, and peaceably remove it, this is no Riot. *Dalt. J. P. c.* 46. 85. Cap. 14.

1 The Juſtices of Peace may proceed upon the Statute of *Northampton*, of which ſee *Dalt. J. P. in Cap.* 46. 2 The Party greived may have a Commiſſion out of the Chancery to enquire of it, and of the neglect of the Juſtices of Peace in puniſhing it. 3. Or hee may have a Writ out of the Chancery to command the Juſtices of Peace to execute the Statute 13 H. 4. 4. The ordinary remedy is by addreſſe to the Juſtices of Peace. Every one of which muſt do his beſt to prevent, and ſtay them in doing, for this he may and ought to do upon notice of it. 1 To go to the place, if he can conveniently, and he may take with him (eſpecially if it bee great) the *Poſſe Comitatus* and ſuppreſs it. 2. If he finde any of the Rioters, take and impriſon them, and bind them to the good Behaviour. 3 If he cannot go, or ſtay when he is there himſelf, (they being gone for the preſent) he may command his Servants to go, or ſtay and ſuppreſs it, and to bring the Rioters before him to find ſureties for the good behaviour. 4. The Riot being done, the Juſtice of Peace, can neither record it, make enquiry, ſet Fine, award Proceſſe, or meddle with it but as a Treſpaſſe, or upon the Statute of *Northampton*, if it be a Forcible Entry. And yet if the Juſtice of Peace ſitting

Sect. 4. How ſuch Offenders ſhall be puniſhed. And the power and duty of the Juſtices of Peace herein out of Seſſions.

View.

Commitment.

Good behaviour.

Cap. 14.

ting judicially, see a Riot done before his face, he may record this, and command the party to be arrested. But if it be in another place, the party may traverse it. 5. Every Justice of Peace is to see the Statute of 13. *H.*4. executed; for though the two next Justices only are in danger of the fine of one hundred pounds, yet all the rest may be punished. And in the execution of the statute, he is to do in this wise; 1. Get the assistance of the Sheriff, or any other Justice of Peace, if he can. 2. Go to the place, if he can.

Commitment.

3. If he find any Rioters or unlawfull Assembly, commit them to prison. 4. Compell them to give Sureties of the Peace or good Behaviour.

Surety of the Peace or Good behaviour.

5. Upon refusall commit them. 6. Take away their Weapons. And further he cannot go till inquiry, which must be made by two Justices of Peace. And any two Justices of Peace may do this, and they must proceed upon the Statute of 13 *H.*4. as before.

Inquiry.

Only, 1. They are to send for the Sheriffe, or his under Sheriffe; for it cannot bee done without one of them, if the Riot doth continue; for in this case he is one of the Judges. And if they come not, hee that doth come is excused. But the inquiry after, when it is past, may bee by two Justices of Peace, without the Sheriffe, save only as Minister. And if any Justices of Peace doe it, the two next are excused of the 100.*l*. 2. They must likewise, as when one Justice doth it, go to the place. 3. Take, if need be, the *Posse Comitatus*, all above fifteen years old. 4. Arrest the offendors, remove the Force, commit the Rioters, and take away their Weapons; and so they may do to all that

Posse Comitatus

Arrest.

are

are with them, and all that they meet coming from them riotously arrayed: and if they resist, beat, wound or kill them; but may not record a riot done by them. 5. If the Rioters bee escaped, they cannot arrest them, or award processe to arrest them at another time or place: but the record must be sent into the upper Bench, there to be proceeded upon; but no Traverse lieth to this, yet they may send their Warrant to bind them to their good behaviour. 6. After arrest, the Justices and Sheriffe must formally, in the nature of an Inquisition, record the Riot in writing as the case is: For if they commit and not record, they lose 100. l. And they must take care they do the party no wrong, for he cannot traverse it, but is remediless. 7. If another Riot be made upon or before them, they are to record that also. 8. They are then to send them to Gaol, which the Sheriffe is to do with the *Posse Comitatus*: and if they record and not send to Gaol, they lose 100. l. 9. The same Justices, and none other, are to fine them: which fine must bee of good value, that the charges may be born by it. And this fine they may either Estreat into the Exchequer, or keep the offender in prison till he pay it to the Justices or Sheriff. 1 *H.* 5. 8.

Cap. 14.

Traverse.

Good behaviour.

Record.

Commitment.

Fine.

Estreat.

And in this record they may certifie, if they will, to the upper Bench or Quarter Sessions, or keep by themselves. And in all this the Sheriff must joyn with them. 10. But if the Riot be past, the two Justices must, within a month, at a private Sessions enquire by a Jury of the Riot, and being found, record it here, and end the matter, set the fine, make out processe, commit till

Certificate.

Enquiry.

Fine.

Cap. 15 till payment, or upon payment, or ſurety to pay, deliver the priſoner, receive and try the Traverſe, and diſmiſſe the party if they ſee cauſe.

Traverſe. But after Traverſe, the uſuall courſe in this caſe is, to tranſmit the Record into the upper Bench or Seſſions, there to be tried. And if there be any undue practice, that the Jury will not find it, it is to be certified by the Sheriff and the two Juſtices into the upper Bench.

Certificate.

Chap. XV.

About a ſtollen Horſe.

Sect. 1. The power and duty of the Juſtices of Peace here out of Seſſions.

EVery Juſtice of Peace (after ſale of a ſtollen Horſe, and in an open Fair and Market) within ſix months after the Felony done, may take and hear the claime and proof of the right owner, his Executor or Adminiſtrator, or other appointed by him, by two ſufficient witneſſes upon oath, which he may give within forty dayes after the claim. And he may examine the Buyer, or him that hath the poſſeſſion, or intereſt thereof, what money hee paid for the ſame, *bona fide*, ſo as the right owner paying the ſame mony, may have his Horſe again. 31. *El.* 12. 2, & 3. *Ph & M.* 7.

For the better underſtanding whereof, theſe things are to be known. 1. Generall Sale of any thing vendible in Fairs and Markets overt, are good not onely betweene the parties, and bind them, but all others that have right there-

thereunto, be they Infants, *Feme Coverts*, Ideots, *non compos mentis*, ſuch as are in priſon, or beyond ſea, ſuch as have in their owne or anothers right, as Executor, &c. but the Keepers of the Liberties are not bound. *Cook 2. part. Inſt. 713.* But in the Sales theſe things are requiſite. 1. It muſt be made in a place overt and open, as the fields or ſtreets; therefore ſale of a Horſe or beaſt in a ſtable, back-ſide, or barn is not good. 2. It muſt be in an apt place, that is, the place oppointed and uſed for ſale of ſuch things, as Plate in the Gold-ſmiths ſhop, Horſes in the Horſe-Fair; therefore ſale of plate openly in a Scriveners ſhop, or Horſes in the Sheep-Market, is not good. 3. It muſt be a ſale, not a Gift, without valuable conſideration. 4. The Buyer muſt be ignorant, for if he knoweth the Seller hath at the moſt but a wrongfull Poſſeſſion, this will not binde the right owner. 5. There muſt be no Covin in the caſe. And therefore if there be a ſale of purpoſe betweene two to bar him that hath right; this will not bind him. 6. The ſale muſt continue, for if the wrong doer get the goods againe, him that right hath, may take them from him. 7. There muſt be a ſale and contract; and therefore if it be made by one not able to contract, as an Infant, *Feme Covert, &c.* or to a man of his own goods; in theſe and like caſes it is not good. 8. The contract muſt be wholly and originally made there, and not begun out of the Market and finiſhed there. 9. The ſale of any thing but Horſes (as afterwards) is good to alter the property, though no Toll to be paid. 10. It muſt be between Sun and Sun, and during the time of the Fair Cap. 15.

Cap. 15. Fair or Market. 11. If the Owner of the Goods purſue the Felon of the Goods, and cauſe him to be attainted, the ſale of them here by the States Officer that hath ſeized them, is not good to conclude the Owner. And yet a Sale at any time, or in any manner is good to conclude the Parties, albeit it be not good to bind a ſtranger that hath right. To alter the property of a ſtollen Horſe, Mare, Gelding, or Colt, in a Fair or Market, theſe things muſt concur. 1. It muſt be openly ridden, led, walked, or driven, or kept ſtanding an hour together at leaſt, between ten a clock and Sun-ſet, in the open place of the Fair or Market wherein Horſes are commonly uſed to be ſold; and not in any houſe, yard, or back-ſide, or other privy place. 2. All the parties of the Contract preſent in the Fair, muſt come together, and bring the Horſe to the open place appointed for the Toll-taker or Book-keeper where the Toll is due. 3. There muſt be written and entred in the Book the Names and Additions of place, and myſtery of all the parties to the Sale, and the Seller, and (at the leaſt) one ſpeciall mark of the Horſe ſold. 4. The Toll muſt be paid where it is due; if not, the Buyer muſt give a penny for his Entry to the Book-keeper, and all this muſt be done between ten a clock ad ſun-ſet. 5. The Tol-taker, (or where more is paid) the Book-keeper, Bailiff, or chief Officer of the Fair muſt either take upon him the perfect knowledge of the ſeller, his names, and places of dwellings, or elſe he muſt bring to him ſome credible Perſon that can ſo do, and that all this, and the very price of the Horſe be expreſly entered in the Book. 6. He muſt

give

give to the buyer, requiring it, and giving two pence for it, a note in writing out of the Book of all this; otherwiſe the Sale, as to him that hath right, is void. Cap. 15.

But the Book-keepers not delivering the book two dayes after the Fair, *&c.* taking Toll where none is due, or the like, will not make the ſale void. And if the ſale be in all points according to theſe Statutes, yet if the Owner come within ſix months after the Felonie, to a Juſtice of Peace near the place where the Horſe is, and claime him, and within forty dayes prove him to be his by two witneſſes, and that it was ſtollen from him, and pay or offer the money that the party which hath him gave for him, to be by the ſame parties oath atteſted before the Juſtice of Peace, he ſhall have his Horſe again.

Chap. XVI.

Of the Peace and Good Behaviour, and Sureties thereof.

Sect. 1. Surety of the Peace and Good Behaviour, What it is.

THe Suretie of the Peace is an acknowledgement of a Bond to the Keepers of the Liberties of *England*, taken by a competent Judge of Record, for the keeping of the Peace. That of the good Behaviour is for the keeping of the good Behaviour, and hath affinity with the former.

The

Cap. 16. *Sect.* 2. The Power and dury of Juſtices of Peace herein out of Seſſions. and in what caſes, and for what cauſes it may be granted. Peace upon diſcretion, and how. Rioter, Barreter, Affray, or Him that doth threaten. Armour.

The Juſtice of Peace may of his own authority, motion, and diſcretion, or by authority from another, require any man to give ſurety of the Peace in theſe caſes following, *viz.* 1. Where he doth know him to be a common Rioter or common Barreter. 2. Where he doth make an aſſault on the Juſtice of Peace himſelf. 3. Or upon another in his preſence. 4. Where he doth ſee him making an affray, or about to do it. But not after he hath done it. 5. Where in his preſence he heareth one to threaten to kill or beat another, or burn his houſe. 6. Where he ſeeeth men contend in hot words before him. 7. Where men go or ride armed offenſively, or with an unuſuall number of Servants and Followers. 8. VVhere Servants and Labourers go with weapons contrary to the Statute. 12. R. 2. 9. VVhere he that is bound already hath broken his Bond, and he may bind him *de novo*. 1. *Ed.* 4. 40. But ſome ſay the forfeiture muſt be levied firſt. 10. VVhere the Sureties of one that is already bound are inſufficient. 11. VVhere he doth ſuſpect any one to be inclined to break the Peace. 12. VVhee a Conſtable ſhall bring one before him, that doth threaten in his preſence to kill, maim, or hurt another; or hath attempted the breach of the Peace before him, by drawing weapon, aſſaulting, or ſtriking; or one whom the Conſtable found quarrelling in a houſe, or making, or that hath newly made an affray, eſpecially if he hath wounded another in the affray.

Sect. 3. Vpon Requeſt. Oath.

VVhen the Peace is granted upon Requeſt, there muſt proced an Oath of the Partie deſiring it; That he ſtandeth in fear of his life, or ſome bodily hurt, or the firing of his houſe by him

him (againſt whom he deſireth it) or by his procurement: and that he deſireth the Peace not of malice, but of very fear, which may ariſe from his threatning to do it, or otherwiſe. And without this Oath it is not to be granted: but upon this it is grantable in theſe caſes. Cap. 16.

If one do threaten to kill, maim, beat, impriſon, or hurt another in his body, or to fire his houſe or goods. And ſo it ſeems if he threaten to kill or hurt his wife, children, or ſervants.

But it is not grantable to me, becauſe another goeth with Weapons, who did never declare any malice or evill purpoſe againſt me.

Nor where I ſhall ſwear I am in fear of him that he will do my ſervants or cattel ſome hurt, becauſe we are at variance. Nor where no fear is of preſent or future danger; but it is of meer vexation: Yet if the party will take his oath hee is in dread of his life, the Juſtice of Peace cannot well deny him.

If the husband do uſe outragiouſly to beat his wife, or maſter his ſervant, and they make oath hereof, and deſire the peace, the Juſtice of peace may not deny it.

1 The Juſtice of peace may of his own motion and diſcretion, &c. or at anothers requeſt, and *ex officio*, or upon a *ſupplicavit* as a Miniſter, as upon Articles exhibited and proved before a Maſter of the Chancery, he may ſend this writ to the Juſtice of Peace, to bind the party to the good behaviour, and they may require it of theſe perſons following. *Sect.* 4. Good behaviour. By common Law.

2 One that is of evill Name and Fame, in generall, dangerous and ſuſpicious, or keepeth company with ſuch, eſpecially if he be defa- Evill Name.

Cap. 16. med or detected in any one of these particulars. 34. *Ed.* 3. 1.

Robber. 3. A common robber beyond the seas, that liveth idly here, one that doth lie in wait to rob, or is generally suspected to be a high-way Robber, or doth attempt to rob men, and put them in fear, or is suspected to bee a common pilferer. 34. *Ed.* 3. *ch.* 1. *Dalt. J. P.* 221.

Cheater. 4 A common Cheater or Cousener, as one that by false letters or tokens gets money, or other things from others. *Dalt. J. P.* 88.

Rioter. 5 A common Rioter.

Barreter. 6 A common Barreter, Quareller, or breaker of the Peace.

Libeller. 7 A Libeller (i.) one that procureth, contriveth, or doth publish any Libel against another, especially if it be against a Magistrate. So also if a man be a common slanderer, or common Talebearer, and his slanders and talebearing be of dangerous consequence and do much mischeife: these, I think, are fit to be bound to the good behaviour.

Poysoner. 8 One that doth practise to poyson men, or doth poyson Cattell, Poultry, or other Creatures.

Peace breaker. 9 One that is like to commit homicide, or other grievances to the bodies of the people. 34. *Ed.* 3. 1.

Forcible entry. 10 One that hath committed a Forcible Entry, or Detainer. Also all persons unlawfully and riotously assembled; or unlawfully wearing armour by night or day, or otherwise affrighting the people. *Dalt. J. P.* 73. *Dalt. J. P.* 109.

11 One that is a common Drunkard. Cap. 16.

12 One that is the putative Father (that is) hath begotten, or is ſuſpected to have begotten a baſtard child. Drunkard. Baſtard.

13 One that is a common Whoremonger, or a common Whore: One that hath committed adultery or fornication. Incontinent.

14 One that doth keep or haunt, or is vehemently ſuſpected to keep or haunt a common Bawdy-houſe. One that keepeth a lewd woman in his houſe. *Cromp. J. P.* 10.

15 One for conſpiring to take away anothers life, indicting him, and giving falſe evidence againſt him: So 19. *Jac. in Chancery*, it was granted by Sir *Matthew Cary*, a maſter of the Chancery. Conſpirator.

16 One that being a materiall witneſſe, and required by the Juſtice of Peace, doth refuſe to be bound to give evidence at the Gaol delivery againſt an offender. *Dalt. J. P.* 66. Witneſſe.

17 One that ſelleth Ale contrary to the Juſtice of Peace order. *Dalt. J. P.* 37. Ale-ſellers

18 One that ſheweth himſelfe contemptuous in word or deed, to the perſon or authority of a Juſtice of Peace, eſpecially if he be in execution of his office, as to call him knave, or bid him kiſs behind, or the like, or being called before him, doth refuſe to anſwer him, or to tell his name, *Cook* 11. 105. or being required by the Juſtice to aſſiſt him in the doing of his Office, doth refuſe it. Contempt of Authority.

19 One that complains of a Riot, and having drawn the Juſtice of Peace to the place, will not follow it, but deludes him. Or charge a man with Felony before him, and will not give evi-

Cap. 16. dence. If one be appointed by the Juſtice to take an Apprentice, and upon his refuſall is bound to the Seſſions, and there he refuſeth. Reſol. by the Judges *temp. Car. Reg.* 7. So he that ſhall accuſe another before a Juſtice of Peace, with any foul crime, being put to make it good, doth wave it.

Perjury. 19. One that ſuborneth witneſſes. 15. *Car. B. R.* or is perjured.

Idle livers. 20. One that being an idle perſon, and having nothing whereon to live, yet fareth and weareth well, and ſpendeth much in Ale-houſes and Taverns, if upon examination he cannot give the better account of his life.

Meſſenger of Thieves. 21. One that is a common Meſſenger for theeves.

Eveſdroper. Night walker. 22. One that is a common Eveſ-dropper; Or one that is a common Night-walker, that caſt mens gates and carts into ponds, and do other like feats in the Night. 13. *H.* 7. 10. *Winch.* c. 4.

Hue and Cry. 23. One that maketh a falſe Hue and Cry, or doth raiſe a Hue and Cry without cauſe.

Watch and ward. 24. One that refuſeth to watch, being duly required by the officer. *Dalt. J. P.* 173. 58.

Abuſing of an Officer. 25. One that abuſeth an Officer of the Peace, (be he greater or leſſe) in the execution of his Office.

Hedge-breakers. 26. One that commonly breaketh hedges, robs Orchards, or the like. *Dalt. J. P.* 173.

27. One that abuſeth a *Superſedeas* to a wrong end, as where *A.* is bound to keep the peace againſt *B.* and getteth a *Superſedeas*, and then *B.* releaſeth him. And after he is arreſted for the ſurety of the peace at anothers ſuit, and then he ſheweth this *Superſedeas*. One

One that is acquitted of a Felony, if he be a person of evill name and fame. Cap. 16. Felon.

28 All Affrayers by *Dal. J. P.* 109. who saith, That if any affray, Forcible Entry, or other thing be done in disturbance of the Peace, in view of a Justice of Peace; after the doing, hee cannot commit them for it: but he may record it, and send his warrant to take the offender, and bind him to his good behaviour, or send him to Gaol. *Dalt. J. P.* 109. Affrayer.

29 Bailiffs that arrest a Minister on the Sabbath day in the Church, especially if he be in the doing of divine Service, or in his going to or from Church. Disturbers of a Minister.

30 One that hath been drunk the second time. *4. Jac.* 5. *21. Jac.* 7. By Statute Law, Drunkard.

31 The woman that hath had a bastard the second time. *7. Jac.* 4.

32 One that having the plague in his house, or upon him, and being commanded to keep in, refuseth to obey, is to be bound for one year. *1. Jac.* 31. Plague.

33 One that doth wilfully disturb a Preacher in his Sermon. *1. Mar. Par.* 1 *ch.* 3. Disturbers of Ministers

34 He that is proved to be a fornicator, to know carnally maid or widow, by confession or verdict, he and she both are to be bound a yeer; so he that keeps a Bawdy-house, or is a common Bawd, is to be bound for life, by *Act.* 10. *May.* 1650.

35 He that is proved by verdict or confession to swear the tenth oath, is to be bound for three yeers *Act.* 22. *June* 1650.

36 He that destroyeth a fish-pond, or that stealeth fish out of Ponds, or Deer out of Parkes, or killeth or hurteth Conies or Warrens, or that Destroyers of Fish-ponds.

Cap. 16. taketh Hawks, or Hawks eggs out of anothers ground, is to be bound for seven years. 5. *Eliz.* 21. 3. *Jac.* 12, 13.

Church. Disturbers of Justice. 37. One that disturbs the execution of the Statutes against rogues, and for the setting of the poor on work. As such as put out such poor out of their parish, that ought not to be put out, 39. *Eliz.* 4. or help to convey away the putative father or mother of a bastard childe likely to be chargeable to the Parish.

News. 38. One that reporteth false news against *Westm.* 1. 34. 2. *R.* 2. 5. *Young.* 22.

Felon. 39. One that is attainted for felony, and hath his pardon, is to be bound before the Sheriff, and Coroner. 12. *Ed* 3. 10. *Dalt. J. P.* 236.

Justices of the Peace may bind a man to the good behaviour, for attempting to rob a man, break a house, attempting by force or fraud to abuse and deflowr a woman: One that doth haunt lewd houses, or lewd and suspicious company, theevish or whorish; And for common swearing: But he is not to be bound for common swearing for three years, unless he be convicted for ten oaths, according to the Act of 22 *June*, 1650. Also we bind men to be of good behaviour, for sitting all a night, drinking, cutting their ears to bleed them in the drink to drink it, casting beer in one anothers codpeece, eating a hat, and such like frolicks: And so in many other cases. And this being an act and power left much to the discretion of the Justice of Peace, and being a ready and sharp remedy, I think the Justice of Peace shall do well, especially in these times wherein offences so much abound, to make more use of

of it, and especially in case of wrongs, where either other remedy faileth, as for slandering, as for such words for the speaking whereof no action lieth: for this tendeth to the breach of the Peace; or the remedy is either for chargeableness, or tediousness, worse then the disease, as for disobeying the Sessions orders, or Justice of Peace Warrant, as in bringing in the Kings Bench, or Marshalsey, or Mariners, or maimed Souldiers money, or the like. For if a man deserve to be bound for a contemptuous word or carriage to a Justice of Peace, which concerneth none but himself, *à fortiori*, he may be bound for a contemptuous deed by neglect or sleight of the Warrant or Order of all he Justices of Sessions, or of any one, or more of them out of Sessions, which may concern many, as the payment of the County money, or the like: wherein if there be no remedy but by indictment, how this will suit to the malady, we Justices do know by sad experience enough. For my part therefore, in these and such like cases, as I find no remedy like to this, so I do and shall use none more then this. See *Dalt. f.* 29. Cap. 16.

Sect. 5. Who may do it, and where & before whom it is to be done.

1. Albeit it be not usual for one Justice of Peace, to require or take surety of the good behaviour, but to do it at a Sessions, or at the least at a sitting of two Justices of peace, or more, and at the suit of divers men of credit, and upon Articles exhibited also; yet any one Justice alone out of Sessions, and of his own motion, or at the suit of one man, having matter proved before him to ground it upon, may do it. But it concerns him to be cautious; for if the matter

Cap. 16. be falſe, the party hath no remedy for this wrong.

2. The Surety of the peace is uſually granted and taken by one Juſtice of peace, and that out of Seſſions.

3. One Juſtice of Peace may require it of another Juſtice of peace.

4. A Juſtice of peace may grant it againſt his own wife.

5. The diſturbers of the execution of the Statute about Rogues, and the poor, muſt be bound to the good Behaviour by any two Juſtices of the peace. 39. *Eliz.* 4. *Dalt. J. P.* 154. as *Dalton* affirmeth; but the Statute is indefinite, they ſhall forfeit five pounds, and be bound to the good Behaviour. 39. *Eliz.* 4. And ſo it is for him that hath the plague, and refuſeth to obey the Officers command. *Statut.* 1. *Jac.* 31. And ſo it is in the Statute of 7. *Jac.* 4. She that ſhall have a baſtard the ſecond time, ſhall be ſent to the Houſe of Correction till ſhe put in good Sureties for her good behaviour, not to offend ſo again; and this it ſeems muſt be before two Juſtices of the Peace.

7. The Diſturbers of Preachers, ſtealers and deſtroyers of Fiſh, takers of Hawks and their eggs, hunters and killers of Deer and Conies in Warrens, and the like, are to be bound to the good behaviour in the Seſſions, and cannot be bound elſewhere. *Dalt. J. P.* 235, 236.

8. The Popiſh Recuſant, and he that comes not to Church in twelve moneths, is to be bound to the good behaviour in the upper Bench, and not elſewhere. 23. *Eliz.* 1.

9. He that is attainted of Felony, and hath hi-

pardon

pardon, is to be bound to the good behaviour before the Sheriffe and Coroners, who are to return it in the Chancery. But the Judges usually take it at the time of their acquitall. *Dalt. J. P.* 236. Cap. 16.

In all other Cases, as for Drunkenneſſe the ſecond time, and the reſt, any one Juſtice of Peace may require or take it. *Sect.* 6 Who may demand and have it.

1. It may be had for or againſt any Spirituall or Lay Perſon without diſtinction: but it cannot be had againſt any Peer of the Realm but by a Suit to the Lord Keeper. And againſt whom it may be had.

2. The VVife may have it againſt the Huſband or another. The Husband or another againſt the wife, but the wife muſt be bound by Sureties, not by her ſelfe.

3. A Juſtice of Peace may have it againſt his own wife.

4. It may be had for or againſt one that is attainted of Treaſon or Felony, or in a *Premunire*, convict of Hereſie, or abjured.

5. It may be had for or againſt a Juſtice of Peace, Sheriff, Coronor, Eſchetors, or other Officer. And a Juſtice of Peace may demand it of his Fellow againſt another man, or another man may demand it of a Juſtice of Peace againſt his fellow Juſtice.

6. A drunken man may deſire it, or it may be deſired againſt him. *Dalt. J. P.* 202.

7. A dumb man may deſire it. And it may be deſired againſt a man that is dumb, and not deaf. And he muſt be bound by others. But it cannot be had for or againſt one that is born dumb and deaf, or made blind and deaf accidentally, except he have more underſtanding then ordinary.

8. An

8 An Infant may desire it, or it may be desired against him, if he have discretion. But he must be bound by others.

9 A Villian may have against the Lord, or the Lord against the Villian.

10 It may be had for an Alien in amity with the State, though he be not made Denizen; but not for an Alien in enmity with the State, that is not made Denizen; nor for an Infidel, Pagan, or Jew.

11 A Lunatick may crave the Peace and have it; and a mad man that hath his *Lucida intervalla*, may desire it, or it may be desired against him. But another man that is mad always, or *de non sanâ memoria*, can neither be bound, nor demand Bond in this Case. But the Justices, if they see cause, may take Surety for his safety of their own discretion.

12 It may be had against an Excommunicate person. But not for him.

13 It may be demanded and had against an impotent man, for he may procure another to break the Peace.

14 Or against a Juror at Sessions, but it is best to forbear to bind him till the Sessions be ended.

15 It may be had against any person that may have it.

Sect. 7. The manner of granting it And how it must be done.

For the manner and order of granting the Peace or good behaviour, these things are to be known. 1. It lieth in two things, 1. The Precept. 2. The Execution: wherein is 1. The serving of the Precept. 2 The taking of the recognizance. It may be required by word against one that is present. The Justice may command the Sheriff, his

his own, or any other indifferent man, or the Constable, to take the party into his custody; and if he refuse to find Sureties, to carry him to Prison. But if the party be absent, he must send his warrant under his hand and Seal, or his hand at the least. 2. This warrant must contain the cause, and at whose suit. See it *Dalt. J. P.* 121. Cap. 16. The Warrant.

In serving of the Precept, these things are to be known. 1 If it be made to two or more, one of them may execute it. 2. If it be directed to the Sheriffe, any one of his known under-officers may execute it without any warrant from the Sheriff, but so may not others. 3. And if it be directed to a Bailiff, or Servant of a Justice of Peace, or other that is no Officer, they must do it themselves, and cannot command others. 4. Whosoever do it, is to do it thus. He is first to acquaint the Party with the matter before he arrest him: and desire the party to go with him before a Justice of Peace to put in Sureties, and if he yeild in reasonable time, he is to do it, and go with him and to see it done. 5 *Eliz.* 4. 31. 5. If he refuse, or delay longer then a reasonable time, he must arrest him, and carry him to Gaol: and so he may do, if when he come to the Justice, he do not put in Sureties, and this he may do without a new Warrant by the first Precept. 4 *H.* 7. 9. 6. The sworn or known Officer when he doth execute this Warrant, need not shew it, though the Party arrested require it; but another man must shew it, if it be required, otherwise the Party may resist him. 7. If the Precept be to bring him before the same Justice of Peace that made it (as it may be, and must be, if The serving of it. Officer.

Cap. 16 Supplicavit

if it be by *Supplicavit* (so required) the Officer must do so. But if it be to bring him before any Justice of Peace of the county, as usually it is, and ought to be, when it is done *ex officio*, & not by *Supplicavit*, 4 *Ed.*4. 31. (as some say) the Officer, not the Delinquent shal have the choice to what Justice of the Peace to bring him. *Cook.* 5.59.21 *H.*7.20. 8. If the Officer do otherwise than his duty herein, he may be fined, or false Imprisonment may be brought against him by the Party. 9. If when the party is brought before the Justice, he do not bind him, he may be punished; the Officer is discharged. 21. *H.*7.22 *Dalt. J. P.* 196.

The taking of the Recognizance

In the taking of the Recognizance, these things are to be knowne. 1. If he take it as Minister upon a *Supplicavit*, he must do according to the direction of the Writ. But if he take it as a Judg, he may take what Sureties, and bind for what time, and regularly in what sum he pleaseth, but the ordinary sum is tēn or twenty pounds. Yet a recusant bound to the good behaviour in the upper *Bench*, is to be bound in two hundred pounds. 2. For the manner, it must be thus made.

*Sect.*8. How it must be made, and how it shall be taken.

1. The bond is to bee *Custodibus Libertatum Angliæ*, to the keepers of the liberty.

2 The condition usually is to keep the Peace or good behaviour against all men; and especially *I. S.* till the next Sessions, and then to appear: this is the best Form. But if against all men onely, or against *I. S.* onely, it be to keep the Peace, *&c.* and not to appear, or to say not when, or before whom to appear, or if it be to appear at ano-

another, not the next Sessions, or to keep the Peace and set down no time, or for a year, or for life; these are good. *Lamb. Just. P.* 103. 104. Cap. 16.

But if the condition be to do any thing else than to keep the Peace or good behaviour, the whole bond is void. *Dalt. J. P.* 211. 2 H. 7. 3.

If no time be set down, it shal be taken for his life that is bound.

If no time be set down when to appear, the Obligor may appear at any time, but it is safe to appear the next sessions. If it be not set down before whom, hee may appear before any Justice of Peace. *Dalt J. P.* 211.

3 For the disposall of the Recognizance, these things are to be known. 1. The Recognizance, whether taken by Writ, or *ex officio*, it must be sent to the next sessions, to the end that the Party may be called (if the condition be for his Appearance) and his Appearance or Default, recorded. 2. If any release be made of it, or *supersedeas*, so that it be discharged; the Recognizance must be certified with the Release, and the *supersedeas* annexed. 3. And albeit the King had, or any of the parties had died before the sessions, yet these things are to be certified to the Sessions. 4. Though the Recognizance be not certified, yet the party must appear: yet if a *supersedeas* come out of the chancery, and the bond be ordinary; this will discharge his Appearance. If the party be sick and not able to appear, or if he have any other sufficient excuse, it is best for him to plead it. 5. If a man be bound to appear at the Assizes or Sessions, and the Recognizance be before that time removed by *Certiorari* into the Chancery or upper Bench;

Sect. 9. What must be done with the Recognizance after it is taken.

Release.

Certificate.

Supersedeas

Cap. 16. Bench; this will discharge his appearance. *Dal. J. P.* 237.

6. The Justices of Peace at Sessions are to call the party Conusor, and if he do appear, and the Prosecutor appear also, and hee be willing to discharge the Conusor (if it be of the Peace) they do usually discharge him; but if he desire he may be continued, and shew reason, they do continue him. If the Prosecutor do not appear, they do usually bind him over two or three Sessions. If the condition be general against all men, and not against any Person in particular, they do usually make Proclamation, and then discharge them. *Lamb. J. P.* 109. *Dal. J. P.* 214. If he were bound by the Justice of Peace discretion, he may at his discretion discharge him, unlesse any law do limit him how long he shall stand bound. 7. Where the Justice hath taken bond, either *ex officio* or otherwise, he is to give him a *supersedeas* against all other Justices, that he be no further troubled. *Dalt. J. P.* 206 236.

Supersedeas.

Sect. 11. What shall be said to be a breach of the Peace or good behaviour. And cause of forfeiture of the Recognizance, or not. For the Peace.

1. To do any such as before, for which the surety of the Peace or good Behaviour may be granted, as maliciously to threaten to kill, beat, or imprison another, especially the party at whose suit it is granted, is a cause of the breach of the Peace, and forfeiture of the bond. *Poulton de Pace, Lamb. J. P.* 114. 33. *H.* 6. 18. 12. *E.* 4. 35. 2. To do such an act, or procure such an act to be done, which is a breach of the Peace: as to do Felony against the person, beat another, imprison, strike, or assault him, by offering some hurtfull act or thing, or some fearful speech, or thrust him maliciously into the water.

ter. *Lamb. J. P.* 126, 127. Or make a Riotous Assembly, send a Challenge to fight. 7. *H.* 4. 34. Or offer to another any injurious or violent handling by miſ-intreatings of the perſon of another. To make an affray, which may be either by going with unuſual Armour or Weapons *in terrorem Populi*, or by a mutual Quarrell, and going together by the Ears of many together. *Lamb. J. P.* 127. All theſe things are breaches of the peace. Cap. 16.

But for a Maſter to correct his Servant or Scholar moderately, Parent his Child, Gaoler his priſoner, or the like, *Dalt. J. P.* 220, nor for any man that doth any Act in the Execution of Juſtice, is no cauſe of Forfeiture of ſuch a bond, nor the defenſive beating of another to ſave himſelf or his. *Lamb. J. P.* 127. So the Lord his Villian. 33. *H.* 8. *cap.* 12. So a Friend may beat his mad Friend for reclaiming of him. *Stam. fol.* 13, 14, 15.. 14 *H.* 7. 8. Nor to take away another mans goods or ward wrongfully, or do Treſpaſſe in his lands or goods, or to diſſeiſe him of his land; for all theſe things are juſtifiable. *Lamb. J. P.* 128. 129.

For the Good behaviour.

To do any ſuch Act for which the Surety of the good behaviour may be granted, is cauſe of Forfeiture of this Recognizance. As 1. Whatſoever wil cauſe a Forfeiture of a Recognizance of the peace, will cauſe a Forfeiture of this bond. 2. So to ſay or do any thing that may ſtir up the breach of the peace. 3. To go with an extraordinary number of men attending him, or the like. *Lamb. J. P.* 116. 4. To go or ride armed extraordinarily that it breeds fear in the people. 5. If the binding be for an offence againſt the Statute

Cap. 16. tute, if he ſhall againe offend againſt tha Statute. *Dalt. J.P.* 236. *Lamb. J.P.* 121. 6. To be drunken; by Sir *Nicholas Hide. Dalt. I.P.* 236. 7. To ſwear after one is bound to the good behaviour, for ſwearing is a breach of this bond, *Acts* 22. *June* 1650. 8. To challenge, or ſend a man a Challenge to fight with him, to threaten to beat or wound him, or any ſuch like thing which tends immediately to the Breach of the Peace, is cauſe of forfeiture of a Recognizance of the good Behaviour. But ſcandalous words, eſpecially if they be not actionable, as to ſay, Thou art a Pelter, Lier, Drunkard, Knave, or the like; nor ordinary treſpaſſes done to mens lands, goods, or chattels, make not a breach of the good behaviour. *Cook.* 4. *part of his Inſt. f.* 181.

Sect. 12. What ſhall be ſaid to a diſcharge of ſuch delinquent, or not.

Touching the diſcharge of the party proſecuted in this caſe, theſe things are to be known:

Before Bond given.

1. The proper place of diſcharging before or after Bond given, is the Aſſizes, or Seſſions. *Dalt.* 216.

Releaſe.

2. It may in a due manner be releaſed by the party craving it, before or after the breach of the condition.

3. The death of the King, it ſeemeth, did diſcharge it. But the releaſe, or death of the partp craving it, will not diſcharge the party when he is in priſon. It is doubted by ſome, whether the ſurety of the good behaviour (taken upon complaint) may be releaſed by any ſpeciall perſon, as that of the Peace may be. But others think that it may be releaſed by either the party himſelfe, upon whoſe complaint it was taken, or by the Juſtice of Peace at diſcretion. *Dalt. J.P.* 236. *Lamb. J.P.* 126. See old Book of Entries. *f.* 415, 416.

4. If

4. If he doe performe the condition of the Bond, keep the Peace, &c. and appear at the time, which he muſt do, though the proſecutor doe not follow it. A Juſtice that bindes of his own diſcretion onely till a day, may diſcharge of his owne diſcretion before the day, ſo it be before the Recognizance be forfeited. *Poulton de pace.* 19. Cap. 16 After the Bond.

5. If a man be bound for his life, no releaſe of the King, Juſtice, or Party, can releaſe him, 21. *Ed.* 4.40.

6. If the bond bee to keep the peace againſt *A.* or againſt all men, eſpecially againſt *A.* before the Recognizance is broken, *A.* may releaſe it before a Juſtice of Peace, otherwiſe not. *Lamb. I.P.* 110. And if the party at whoſe ſuit it was, die before it be broken, where he is bound to keep it againſt him, this will diſcharge it. 21. *Ed.* 4.4.

7 Before the forfeiture the King could not releaſe it; and after the forfeiture none but he could do it. 11. *H.* 7.12. 1. *H.* 7.10.

By the death or reſignation of the King, or the party principall himſelfe bound to keep the peace before the bond was broken, it was diſcharged, but not by the death of the Mainpernors. 1. *H.* 7.2. *Dalt. I.P.* 118, 119.

CHAP. XVII.

Of Ale-houſes.

Sect. 1. Who muſt take licenſes

FOr the better underſtanding of the lawes concerning Ale-houſes, &c. theſe things are to bee known: 1. That none may keep any common Ale houſe, or common Victualling-houſe, or uſe commonly to ſell Ale, Beere, Cider, or Perry, that is not licenſed in open Seſsions, or by two Juſtices of the Peace, *Quorum unus.* 5. & 6. *Ed.* 6. 25. 2. That Tavernes keeping victualling, Inkeepers and Victuallers, are within the Statutes as well as Ale-houſe keepers; ſo that if they offend by ſuffering tipling, or ſelling leſſe for a peny, or two pence, than the Statute appoints, they are to be puniſhed as Ale-houſe keepers are. And they are to be bound for keeping of good order, as well as Ale-houſe-keepers. And the Juſtices of Peace may require them to take Licenſes, and enter into recognizance to keep good order, or elſe commit them. And all thoſe Innes which were erected ſince 5 *Ed.* 6. and not Innes before, muſt have Licenſes, and be bound as well as others. *Crom. J. P.* 77. *Dal. J. P. ch.* 7. *f.* 37. 1. *Car.* 4. 3. The Juſtices when they licenſe Ale-ſelling to a man, muſt take bond and ſurety of him againſt the uſing of unlawfull games, and for the keeping of good order, which they muſt certifie at the next Quarter Seſsions, *ſub pœna* 3. *l.* 6. *s.* 8. *d.* 4. When they commit any man 3. dayes

Taverns. Inholders.

Commitment.

Recognizances.

dayes for ſelling without licenſe, they muſt ere they deliver him, take bond with two Sureties, that he ſhall not offend again. And this recognizance, diſcharge, and offence, they muſt certifie at the next Quarter Seſſions. And this Certificate will be a ſufficient conviction in law to make him liable to the twenty ſhillings fine upon 5. *Ed.* 6. 25. 5. If two Juſtices of the Peace diſcharge an Ale-houſe keeper of ſelling of Ale, and two others after out of Seſſions, allow him again, it ſeems the firſt two may commit him. So if he be convicted of any of the offences in the Statutes, by which he is diſabled, and is or is not ſuppreſſed for it: if he be licenſed within three years after, the Licenſe is void, and he to be puniſhed as one unlicenſed. And he that is convict for ſelling leſſe than the Aſſiſe, for ſuffering tipling, or that doth tipple, or is drunk, is diſabled to ſel again for 3 years, and being put down by two Juſtices, he cannot be licenſed but in open ſeſsions. *Dalt. J. P. ch.* 7. 1 *Jac.* 9. 4. *Jac.* 5. 21. *Jac.* 7. 6. If a woman that hath a husband, ſell againſt her husbands will, they may be both puniſhed, his purſe, and ſhe, if the Juſtice think fit, may be impriſoned till ſhe find Sureties for the good behaviour, and that ſhe will not ſell again. *Dalt. J. P.* in *ch.* 7. 7. He that is not licenſed, may be puniſhed by 5. *Ed.* 6. 25. or by 3. *Car.* 3. But he cannot be puniſhed upon both, that is, if he be committed and pay his twenty ſhillings, he cannot be ſent to Bridewell. If he be ſent thither, he is not to be committed to Gaol and pay twenty ſhilings 3 and yet he that is unlicenſed may bee puniſhed for ſuffering tipling, or break-

Cap. 17.

Feme covert

Good behaviour.

Cap. 17. Tipling.

ing the Aſsiſe, as thoſe that are licenſed may be. *Dalt. J. P. in ch. 7.* 8. The Traveller, and other neceſſarily accompanying him, and invited by him during his neceſſary abode in the Ale-houſe; Handicraftmen, Workmen, and Labourers, that are there for an hour at dinner time, and ſuch as do ſojourne and lodg there, and ſuch as are licenſed by two Juſtices of the Peace, are not to be accounted Tiplers within the Statute. But all other men living in the ſame place, or elſewhere, except the ſtranger himſelf, are to be accounted Tiplers. *Dal. I. P. in ch. 7. 1 Car. 4. Iac. 5. 1. Iac. 9.* 9. Brewers may not ſell more Ale or Beere to unlicenſed Ale-houſe keepers, than what will ſerve for their own uſe. *4. Iac. 4.* 10. Selling of Ale at Fairs, is not againſt the Statute, *5 Ed. 6. 25. 3. Car. 3.* 11 All the forfeiture of all theſe offences upon *4. Iac. 7. 3. Car. 3.* 21. *Iac. 9.* are given to the poor of the place where the offence is done: and ſo is the one halfe upon the Statute *4 Iac. 4.* and muſt be delivered to the Church-wardens, who muſt account for it. But the twenty ſhillings on the *Stat.* of *5. &. 6. Ed. 6.* doth go to the State. 12. It is held fit to hear the parties offending in theſe caſes, before the forfeitures be levied in, *Dal. I. P. ch. 7.* 13. If any Ale houſe-keeper ſhall be lawfully convicted of any offence againſt any breach of *1. Iac. 9.* & *4. Iac. 5.* That he for the ſpace of three years next after the conviction, be utterly diſabled to keep any ſuch Alehouſe. *7. Iac. 10.* 14. If a man be puniſhed on *5 & 6. Ed. 6.* that is, committed & hath entred into bond and hath paid 20. s. he cannot be puniſhed on 3.

Car.

Car. and ſo on the contrary part. Cap. 17

There muſt be two Juſtices of Peace, *Quorum unus*, to licenſe a man to keep a common Alehouſe, and to take a Recognizance of him for his keeping of good order, which they may do according to their diſcretion. And there muſt be two Juſtices to remove, diſcharge, and put down an Alehouſe where they think meet, and to commit to priſon without Bail, ſuch as uſe to ſel Ale without licenſe, or contrary to the command of two Juſtices of Peace, upon 5. *Ed.* 6. 26. And to take a Recognizance of him that he ſhall not ſell again, and to certifie this offence and the Recognizance at the next Quarter Seſſions, where he is to be fined twenty ſhillings. And there muſt be two to licenſe Labourers to remain in an Alehouſe, &c. But any one Juſtice of Peace upon oath of two witneſſes, or confeſſion of him that doth of his own head without licenſe, keep a common Ale-houſe, or Tipling houſe, or uſe commonly Ale-ſelling, may make his Warrant to the Conſtables or Church-wardens of the place where the offence is done, to levy twenty ſhillings by diſtreſſe and apriſement, and ſale of goods, after three dayes, returning the overplus; and for want of diſtreſſe, or non-payment in ſix days, to whip, or cauſe him to be openly whipped, and to commit the officer neglecting his duty, to priſon, till he doe it, or pay forty ſhillings. So alſo any one Juſtice for the ſecond offence herein, may ſend the Aleſeller to the houſe of Correction a month; and for the third, may ſend him thither until he be from thence delivered by order from the Quarter Seſſions. 3. *Car.* 3.

Sect. 2.

The power and duty of a Juſtice of peace herein out of Seſſions.

Selling without licenſe.

Warrant.

Bridewell.

Cap. 17. Suffer tipling,

Alſo any one Juſtice of Peace upon his own veiw, oath of one witneſſe, confeſſion of the party, or upon his oath after his confeſſion againſt him that ſhall ſuffer any perſon forbidden by the Statute, to remain tipling in his houſe, may convict him; which done, the Conſtables or Church-wardens of the place where the offence is done, may *ex officio*, without any Warrant from any Juſtice of Peace, levy ten ſhillings by diſtreſs and ſale of goods, returning the overplus.

Conſt bles. Churchwardens.

Commitment.

And for want of diſtreſſe, the Juſtice of Peace may ſend the offender to Gaol till he pay it. So he upon the confeſſion of the party, or oath of one witneſſe againſt the Innkeeper, &c. that he doth ſell leſſe then a quart of the beſt for a penny, or two quarts of the ſmall for a peny, may convict him for the twenty ſhillings forfeiture; which done, he muſt be proceeded againſt, as in the laſt. And if in theſe two laſt caſes the officer do not levy the money, or within twenty dayes certifie the want of diſtreſſe to the Juſtice, hee may ſend his warrant to ſome other under hand and ſeal, to levy forty ſhillings of the officers goods by diſtreſſe and ſale, after ſix dayes, returning the over-plus. And for want of diſtreſſe, he may ſend the offender to Gaole till payment bee made of the forty ſhillings, 1. *Iac.* 9.

Selling under meaſure.

Certificate

Tipling.

Any one Juſtice of Peace may alſo upon his own view, oath of one witneſſe, confeſſion of the party, or upon his oath after his confeſſion againſt him that ſhal be in any Inn or Ale-houſe tipling, and is forbidden by the Statute, may in caſe it be not paid within a week after conviction, to the Church-wardens of the place where

the

the offence is done, make his Warrant to the Conſtable, or other inferior officer of that place, to levy three ſhillings four pence of his goods; and if he be unable to pay it, to put him in the ſtocks four houres; which if the officer doth neglect to doe, the Juſtice may ſend his Warrant to ſome other to levy by way of diſtreſſe, ten ſhillings of his goods that is the officer. Cap. 17. Stocks. Warrant.

So alſo any one Juſtice on his own view, oath of one witneſſe, confeſſion of the party, or upon his oath that hath confeſſed it, againſt him that ſhall be drunk, may levie the five ſhillings forfeiture in the ſame order, as in the laſt for Tipling. And if he be unable, to put him in the ſtocks ſix hours: the officers neglect to be puniſhed as before. 4. *Jac.* 4. It ſeems alſo that one Juſtice may for the ſecond offence, bind the offender to the good behaviour, 4. *Jac.* 5. 21. *Jac.* 7. Drunkennes. Good behaviour.

CHAP. XVIII.

Of Baſtardy and Incontinency.

FOr the better underſtanding of the Law herein, theſe things are to be known. 1. Inceſt is Felony. 2. For a woman knowing her husband to live, and not having been three yeers abſent, or by common report reputed to bee dead, to be known by a man, is Felony in both of them. So any one that lyeth with a marryed woman, knowing her to be marryed. 3. If

Cap. 18. any others lie together, they are to be ſent to Gaole, three moneths without baile, and untill they give ſecurity before a Juſtice of Peace to be of Good Behaviour for a year; the ſecond offence is Felony. 4. A Bawde, or one that keeps a Bawdy-houſe, is to be whipped, ſet on the Pillory, burned on the forehead with *B.* put in Bridewell for three yeers, and be bound to the Good Behaviour for life. And the ſecond offence is Felony. *Act.* 10. *May* 1645. 9. *Aug.* 1648. 5. Nothing can be upon proof of the Husband and Wife only done againſt either party.

And as to Baſtardy, theſe things are to bee known. 1. That any Juſtice of Peace of the County, as well as the next and neareſt to the place, may take order for the ſecurity of the pariſh &c. 3. *Car.* 4. 2. Juſtices of the Peace are not to meddle to make order for the ſecuring of the pariſh when the child is dead; or if it be living, but upon complaint of ſome of the pariſh. But they are to ſee the offenders puniſhed for their incontinency. 3. The order for the keeping of the child muſt be firſt made by two Juſtices of Peace, and therefore the Seſsions do alwayes referre it firſt of all to the two next Juſtices of Peace. 4. If the two Juſtices of Peace cannot agree upon the order, it muſt be referred to the Seſsions. 5. The mother may bee examined upon oath touching the reputed father. 6. Where the parties doe marry together before any order made, the Juſtices of Peace do not uſe to intermeddle; yet here it ſeems the parties may be puniſhed for their incontinency. But inquire well. The Matrimony ſub-

Order.

Marriage.

ſubſequent taketh away the crime before. 7. If the parents do not appeal to the Seſſions, nor obey the order of the two Juſtices of Peace under their hands, upon notice, they are to be committed to Gaol till they do, or put in ſurety to doe it, or elſe to appear at the next Quarter Seſſions, and ſtand to the order of the Juſtices of the peace there, if they make any, or elſe to the firſt order of the two Juſtices of peace under their hands. 8. If the order of the two Juſtices be revoked, it muſt be done at the very next Quarter Seſſions, otherwiſe the firſt order will ſtand. And therefore if the Juſtices at the next Seſsions, affirme the order, the Juſtices at any Seſsions after cannot avoid it, *& ſic è converſo. Hill. 9. Jac. B. R.* 9. The woman is not to be puniſhed with any corporall puniſhment, till ſhe be delivered and recovered. And then for the firſt offence ſhe is to be ſent to the houſe of Correction for a year; and for the ſecond ſhe is to be ſent thither untill ſhe can put in ſureties for her good behaviour, and not to offend againe. And then it ſeems ſhee is not to be puniſhed with any corporall puniſhment, upon 18. *Eliz.* 10. The child is not to be ſent with the mother to the houſe of Correction, unleſſe it ſuck. 11. If the child be born eleven dayes after the forty weeks after the death of the father, it is not lawfull: So if it be born after the forty weeks after the time the woman charged the man to have known her, it ſhall not be accounted his child.

Cap. 18.

Commitment.

Houſe of correction.

Good behaviour.

Sect. 2. The power and duty of the Juſtices of Peace out of Seſſions herein.

Any one Juſtice of Peace may bind to the good behaviour the putative Father of a Baſtard child, like to be chargeable to the pariſh, before

Cap. 18. before or after the birth of the child, *Dalt. J. P.* in ch. 11. So alſo may one Juſtice of Peace before or after the birth of the child, bind over to the good behaviour and next Gaole delivery, or Quarter Seſſions, ſuch as ſhall have any hand in the ſending or conveying away of the putative father or mother, whereby the child is left to the charge of a pariſh. 18. *Eliz.* 3. 7. *Jac.* 4. But there muſt be two Juſtices of Peace, *Quorum unus*, to take order for the relief of the the baſtard, eaſe and ſafety of the pariſh, corporall puniſhment of the Mother, and reputed Father, to commit them till they obey the Order, if they make no appeal to Seſſions; and if they doe, to bind them to appeare there, and to obey the Order of the Seſsions; and to ſend the Woman to the houſe of Correction; for no one Juſtice of Peace may do either of theſe things. 18. *Eliz.* 3. 7. *Jac.* 4. *Dalt. J. P. cap.* 11. Nor can any Juſtice out of Seſſions do any thing upon the laſt Act of 9. *Aug.* 1648. But conviction muſt be by Indictment and confeſsion, or Attainder thereupon.

Order.
Commitment.
Bind over.

Chap. XIX.

Of the Poor and Rogues.

Sect. 1. For the opening of the Juſtices of Peace Office about the Poor, it is neceſſary wee premiſe ſomething of the Over-ſeers of the poor, and their office; touching which, take

take these things: 1. The Over-seers of the poor are certaine officers appointed yearly to be joyned and assistant to the Church-wardens of the Parish in the over-sight and ordering of the poor of the parish: and they are to be chosen and made by two or more of the Justices of the Peace of the County (whereof one of them must be of the *Quorum*) dwelling in or near the parish or Division, *&c.* who are yearly under their Hands and Seals at *Easter*, or within a moneth after to appoint four, three, or two substantial Housholders (according to the greatness of the Parish) to be joyned with the Church-wardens of the Parish, and all these together are to look to the poor of the parish. Cap. 19. *Sect.* 2. Over-seers of the poor, and their office.

2. And in this Office the Church-wardens of the place have an equall Authority and Charge with the Over-seers of the poor; and therefore howsoever it be the common course in most places with the Church-wardens to neglect it altogether, and not to meddle at all with it, yet this is a common neglect punishable upon the Church-wardens, and fit to be redressed. But if there be but one Church-warden within the Parish, this doth suffice, and the over-seers and he together may execute the office well enough.

3. The *major* part of them without the rest may do any thing belonging to their office.

4. They must have the consent of two Justices, *Quorum unus*, either in particular, or in generall, to every thing they do in their office. *Dalt. I. P. cap.* 40. And yet it seems they may set up and exercise a Trade by the consent of one Justice, where there are not two Justices within the Limits. 3. *Car.* 4.

5. The

Cap. 19. *Sect.* 3. In ſetting the poor to work.

5. The Office of all theſe men lieth in the ſe things. 1. In generall, they are to take order with the conſent of two Juſtices of the place, to ſet their poor a work, and if need be, for that purpoſe to ſet up a Trade, place out Apprentices, relieve the impotent, and ſuch as cannot work, or cannot live by their work. But more particularly: 2. They with the conſent of two or more Juſtices may ſet up and uſe any Trade, onely for the ſetting a work, and relief of the poor of their own Pariſh, without breach of any Statute. 3. They are to ſet to work the children of ſuch whoſe Parents ſhall not by them be thought able to keep and maintain their children, and ſuch perſons married and unmarried, as having no means to maintain themſelves, uſe no ordinary and daily Trade of life to get their living by; and all thoſe that cannot get work elſewhere. And if any perſon ſo appointed by them to work, ſhall refuſe ſo to do, or any others that are able, if they refuſe to work for the wages aſſeſſed, he may be ſent by any Juſtice of Peace to the common Gaol or Houſe of Correction, not to the place of Birth, or laſt dwelling.

Houſe of Correction.

Sect. 4. In binding Apprentices

4. They or the more part of them, with the conſent of the Juſtices, as aforeſaid, may and ought to bind forth and place to be Apprentices, the children of ſuch whoſe parents ſhall be by them or the greater part of them thought to be unable to keep and maintain their children, but they may not bind any other mens children ſo; and they unto whom they are ſo bound, may and muſt receive them, and keep them as Apprentices; in which particular theſe things

things must be marked. 1. They may binde them to be Weavers, Masons, or any such like Trade, or they may bind them to Husbandry or Huswifery. 2. It is said, they may bind any above seven, and under thirteen years: and the man-childe may be bound until he be of the age of twenty four years, and the woman child untill she come to the age of twenty one years, or be married. 3. They with the Justices of Peace may compell any man they think fit, to take such a poor child of the same Parish, to bee his Apprentice, and that without any mony at all: howbeit in this case, it is meet some respect should be had; for if the child be young, and the party to whom they would place him not very able, they may give money if they will, and it is fit that some money bee given as the Overseers and the Party can agree; and if they cannot agree, as the next Justices of Peace, or as the Justices of Peace at the Sessions shall set down. *Resol. of the Iudges.* 4. All men that have or may have use for Servants, are bound to receive such Apprentices themselves, or contribute towards the placing of them with others. And albeit a man be not a Trades-man but a Knight, Gentleman, Clergy-man, or Yeoman, and albeit he do not keep house, but bee a Sojourner, if he use Husbandry, Clothing, Grasing, or the like; or howsoever his case be, if by his Calling and Profession he must entertain and use Servants of like quality, he may be compelled to take such an Apprentice. *Resol. of the Iudges.* 5. If a wealthy man live so privately that hee keep few or no servants, and leadeth such a life that he hath no need of such a servant, yet he may Cap. 19.

Cap. 19. may be compelled to take ſuch an Apprentice himſelfe, or to give money towards the placing of him with ſome other. And this notwithſtanding they muſt bear the ordinary Rates to the poor. *Reſol. of the Judges.* 6. If there be not Maſters enough within the ſame Pariſh to entertaine the poor children there; the Juſtices of the Peace may compell them of other pariſhes within the ſame Hundred to take them; and if there be not enough within the Hundred, the Juſtices of the Peace at the Seſſions may compell them of any pariſhes within the County to take them. *Reſol. of the Judges.* 7. They may be bound to a man in regard of his ability, or in regard of his Farm, and in the laſt caſe it ſeems reaſonable that he goe with the Farm. *Dalt. I. P. pag.* 115. 8. This binding muſt be by Indenture. 9. The Indentures made by the Juſtices, Churchwardens, and Over-ſeers in this caſe, and the binding by them are as effectuall to all purpoſes, as if the children were of full Age, and by Indenture of Covenant did bind themſelves. 10. All ſuch as are ſo bound according to 43. *Eliz.* may be ſafely received as Apprentices. 3. *Car.* 4. 11. If any man refuſe to accept of an Apprentice being thus placed to him, he is by the Juſtices of the Peace to be bound to appear at the next Seſſions, or Gaol-delivery; and if he refuſe ſo to do, he is to be ſent to the Gaol, till he do ſo; and if he be bound to appear at the Seſſions, and do ſo, and then refuſe (without a ſufficient excuſe to be allowed by the Juſtices of Peace) then he is by the Juſtices of Peace to be bound to the good Behaviour; or if he refuſe ſo to do, to be impriſoned till he do ſo, and withall

Good Behaviour.

withall he may be indicted and fined for his contempt. 12. If a ſpeciall Rate be ſet on a man, to help bind Apprentices, it may be levied as other Rates, *Reſol. of the Judges.* 13. If the Parents of ſuch poor children refuſe to ſuffer their children to be bound Apprentices, or intice them away being bound, the Parents themſelves may be ſent to the Houſe of Correction. 5. The next main part of their Duty is, to give relief, provide Houſes, and help them that are poor, and not able to live by their work. For this we muſt know that there are three ſorts of poor. Cap. 19. *Sect.* 5. In relieving the poor, and what poor they are to relieve.

1. Such as are poor by impotency, as aged, decrepit perſons, that are paſt labour. 2. The Infant, fatherleſſe, and motherleſſe, not able to work. 3. The perſon naturally diſabled in wit, or member; as the Idiot, Lunatick, blind, lame, *&c.* 4. The perſon viſited with ſickneſſe, who thereby for the time is impotent. All theſe being impotent and not able to work, are to be found and provided for by the Over-ſeers of neceſſary relief. 1. The

2. Such as are ſo by caſualty, as 1. He that is caſually maimed in his calling; as the Souldier, Labourer, *&c.* The perſon that is decayed by fire, water, robbery, ſuretiſhip, *&c.* 3. The poor man over-charged with children. All theſe, and ſuch like, having no ſufficient means to maintain themſelves, are to be holden, and ſet on work by the Over-ſeers, and being not able to live by their work, are further in charity to be relieved in ſome reaſonable proportion according to their wants.

3. The thriftleſs poor, as 1. The riotous and prodigall perſon, that ſpendeth at play, drinking,

Cap. 19. ing, *&c.* 2. The diſſolute Perſon, as Strumpet, Pilferer, *&c.* 3. The ſlothfull perſon that doth refuſe to work, or doth wilfully ſpoile or embezle his work. 4. The Vagabond that will abide in no ſervice or place. 5. Such as will work, but not for the wages taxed or uſually given. And for all theſe later ſort, the Houſe of Correction or common Gaol is the fitteſt place; and to the Houſe of Correction is he to be ſent, and not to his place of Birth, that will not work at the wages aſſeſſed or uſually given; but if they have able bodies, they are to be compelled to labour, for the Rule of *Chriſt* is, That ſuch as *will not labour, muſt not eat*, 2 *Theſſ.* 3.10. And yet if theſe prove unable to work, then it ſeems they muſt have Reliefe from the Pariſh as well as others.

2. They are not to take care for Houſes or other Relief for ſuch as are able to work, and have or may have work; nor yet for their children, for they are by their work to maintaine them alſo, but if ſuch be over-burdened with children, it will be good for the Over-ſeers to place ſome of their children Apprentices; and if theſe cannot have work, the Over-ſeers muſt procure them work, for none may beg in the High-wayes within or without their own pariſh, nor at any mans doors without their pariſh, nor at any mans doors within the pariſh, without order of the Over-ſeers of the poor.

3. Nor are they to take care of ſuch as are able to live. And therefore if any ſuch perſon travell through a pariſh with children, and the Father die and leave them; in this caſe the Pariſh is not bound but in charity to relieve them.

4. They

4 They are not to take care to relieve rogues, for they are to be ſent away. Cap. 19.

5 They muſt take care for ſuch poor as have Parents, or Grand parents, Children, or Grand-children able to relieve them, as well as others, till they can be forced to help them.

6 They muſt take care for all ſuch as are lawfully ſent to and ſetled amongſt them, if they prove impotent. But by the way, as to the point of ſetling, theſe rules and caſes following are to be known.

Sect. 6. Setling of the poor, and where they muſt be ſetled.

1 He that is a Native, Houſholder, Sojourner Apprentice or Servant within a pariſh, and doth live there in peace but three weeks or a month together, is ſaid to be ſetled there: but he that paſſeth through a Town only, or is in another mans houſe as an Inmate two or three dayes together, or lieth in an out-houſe or Barne for a longer time, having no houſe to dwel in; or a Child at nurſe there, or a Scholar at School there; or in the place being an Univerſity; or as a traveller in an Inn there, is not ſaid to be ſetled there by this. And therefore if any impotency happen to any ſuch, the place ſhall not be charged, but they ſhall be ſent to the place where they or their parents are ſetled, or where the Children were ſetled. *Reſol. of the Judges.*

2. If a perſon be once duly ſetled in a pariſh, he may not be after removed, but there he muſt be relieved, or ſet a work, as his caſe is: for no man is to be put out of the Towne where he dwelleth, nor to be ſent to his place of birth, or laſt habitation, but a vagrant Rogue. And therefore they that have houſes or ſervices in Pariſhes, when their eſtates or ſervices are

Cap. 19. ended, are to get new houſes or ſervices, and work if they be able; for in this caſe the pariſh is not to provide for them. But if they be impotent, they muſt be there relieved; for they may not in theſe caſes be ſent to their places of Birth, or laſt dwelling. And yet it is ſaid in theſe caſes, If any of theſe perſons ſhall be taken begging abroad out of the ſame pariſh, that in this caſe ſuch perſons may be ſent from the place where they are taken begging as a Vagabond, to the place of his Birth. *Reſol. of the Judges.* But if he go of his own accord into that pariſh, and do not beg there, they cannot ſend him back; for none but a rogue can be ſent back to any place from whence he came. *Paſch. 7. Car. B. R. per Chief Juſtice.*

3. For further opening this matter, take theſe Rules.

1. The Law unſettleth none who are lawfully ſettled.

2. None may be ſettled by practice.

3. None can be ſaid to be ſettled in that place where he is in no quiet, but continually interrupted by complaints to Juſtices of Peace, their warrants, or other diſturbances of the Pariſhioners or Over-ſeers of the Poor.

4. No ſettlement can be made by Compoſition and agreement.

5. No ſettlement can be made by an illegall remove.

6. Nor can any ſettlement be by any mans being in a pariſh obſcurely, and in a skulking way, that the pariſh cannot take notice of him.

4. For the opening and illuſtrating of the ſe

theſe Rules, take theſe examples and caſes. Cap. 19.

1. If a Rogue be taken at *A.* and he will not confeſſe, nor can they find the place of his birth, but he ſaith that his laſt Habitation was at *B*; whereupon he is whipped and ſent to *B*, and there he confeſſeth the place of his birth to be at *C*, in this caſe without any new Vagarancy, they of *B*, may ſend him to *C*. *Reſol. of the Judges.* 2. If one that hath a Family take a houſe in a Pariſh for one year, and before the end of the year he is forced out of the poſſeſſion of it, and then goeth into another pariſh, and take part of a houſe, and is there as an Inmate but one, two or three dayes; he is put out from thence, and then for want of a houſe lieth in a Barn in a third pariſh, and there the Huſband is ſick, and Wife delivered of a Child; now in this caſe they ſhall be ſent to, and ſettled in the firſt pariſh where his houſe is, and from whence he was lawfully removed, for none may be ſo forced to turn Vagrants. *Reſol. of the Judges.*

3. A Souldier maimed in the late wars before *May* 1647. muſt be ſettled in the place where he was ſettled when hee took up Arms. *Ord. May* 1647.

4. If an Apprentice or a Servant go out of that condition, he cannot be thruſt out of the place, but muſt continne there, and be diſpoſed of as his caſe requires. And if the Maſter of an Apprentice die before or within the time, his Executors or Adminiſtratours muſt provide for him (if they be able) otherwiſe; and howſoever, if the Apprentice become impotent, the pariſh muſt do it; and ſo it is, if he be placed by the Servants & Aprentices,

Cap. 19. Church-wardens. *Resol. of the Judges.* And if a Servant be got with child, and then goeth out of her Masters service before or after it appears she is with child, and the reputed Father is run away or poor, in this case not the Master, but the Parish shall be charged. *Resol. of the Judges*

Wife and children. 5. The Wife regularly is to go with the Husband, albeit he be a Servant. *Resol. of the Judges.* And if a Husband and Wife be roguing, and they have a house in another Parish, though as an Inmate, they may be sent thither. *Resol. of the Judges.* And generally Children under seven years old, and Vagrants must be sent to and setled with the Father or Mother, or Mothers husband; and if he be dead, the Mother where she was born, or last dwelt the space of a year. And being thus setled, they must there remain, and not be sent away from thence to their place of Birth, though after their Parents die or run away, or the children be above seven years old, or do turn vagrant in that Town; for they must be there set on work. *Resol. of the Judges.* If a Woman have a Bastard, and then take a Husband, it is said, He is not bound to maintain this Child, unless he have a sufficient Estate by his wife to do it. 10. *Car.* So held by the Sessions in the County of *Wilts.* And if a Rogue whose last place, or place of birth cannot be known, have a Wife and children under seven years old, they must go with the Husband to the place through which they were last wilfully suffered to passe without punishment, where the Children are to be maintained by their Fathers Work, though they be sent to the House

of

of Correction. *Dal. J. P.* 14. If one hire a house in *A.* or have an house in *A.* and live there with his Wife and children, and bind himself to serve one in *B.* in this case the Wife and children must remain in *A* but if he hire a house in *B.* then they must be all in *B.* And children whose Parents are dead, are not to be sent to their place of birth, *&c.* if they be like to be a charge, for the Parents not being Rogues, the children cannot be Rogues, unless they wander or begg; in this case therefore they must be maintained at the charge of the Parish where the Father died. But if a travelling Woman that hath a child sucking on her, be sent to gaol, and then hanged for felony, the childe shall not be charged on the parish where shee is hanged, but it shall be sent to, and setled in the place where she was born, if it can be found, otherwise to the place where she was taken. Cap. 19

The Bastard child, the Mother or reputed Father being not able to maintain it, must bee with the mother so long as it is in the condition of a nursing child, and then it must be sent to the place of his birth. And if one be delivered of a Bastard child in one Parish, and after the mother go into another parish with it, or become vagrant, so that she is sent to the place of her birth, the child being under seven years of age, is to be sent to the place of his birth, and not setled with the mother. *Resol. of the Judges.* Bastards.

If a woman setled in a service, hap to be with child, which is like to be a charge, the reputed father being gone, or poor, the Parish where she is must be charged; but if she be in ano-

Cap. 19. ther parish, and setled, there she must continue, *Resol. of the Iudges.* And therefore if a woman unmarried be hired weekly, half yearly, or yearly in one parish, and there is begotten with child, and then goeth into another parish, where she is setled in service, or otherwise, two or three months, and then she appeare to bee with childe, and it is like to be charge to the parish, the reputed father being gone, or poor; in this case she is to be setled in the parish where she is, not where she was begot with child. *Resol. of the Iudges.* And if such a servant be got with child, and then go, or be legally put out of her masters service; the parish, not the master must be charged with it. *Resol. of the Iudges.* So if a servant is with child when she is retained, and for this she is afterwards by a Justice of Peace discharged of the service within the time, or she be with child, and her time be expired, and she not able; the parish, not the master shall be charged herewith. *Resol. of the Iudges.*

4. The Justices of the Peace in their Quarter Sessions, if any question bee about these things, do settle it according to these Rules.

5. Such as do remove any contrary to these Rules, may be fined: and if any be sent to any place against these Rules, they are to be sent back again to the place from whence they came. *Stat. 43. Eliz.*

These Officers must provide houses as well as victuals for their poor, and therefore they may by order of the Quarter Sessions, and leave of the Lord of the Man or, first had in writing under

der his hand and seal, build any house for the impotent poor of the parish, in any waste part of the Manor. Also they may place more families then one therein, as In-mates without any danger. But then this house must not be afterwards converted into any other use: for so it may become a cottage afterwards. Cap. 19

6. The next main part of their office is to make rates to enable them to do their work beforementioned. And for t he manner and order of doing hereof, see *Rates ch.* 23. And these things are here further to be known. *Sect.* 6. In making Rates.

1. If any man shal bring into any Parish under any pretence, a man like to be chargeable and burdensome, he may be raised in his rate to the ful value of his estate there, if there be cause. *Resol. of the Judges.*

2. They may put a speciall and extraordinary summ upon any man to help to bind a poor child Apprentice.

3. No relief can be had in these cases, but at the Quarter Sessions, where the Justices when they understand the case, will not relieve.

4. If the Parishioners pay not their Rate, the Churchwardens and Overseers may levy it by distresse and sale of their goods by a Warrant from two Justices, *Quorum unus*, and for want of distress, two Justices may send him to Gaol til he pay it. 43. *Eliz.* 2.

They are to do their work by and with the mony raised by the rates: Also with the mony that comes to them by the forfeitures of Delinquents, upon the Statutes against Ale house-keepers and Tiplers, sale of Tenters, default of Clothiers, the *Sect.* 7. With what.

Cap. 19. fleſh in Lent in a Victualling-houſe, for taking Patridges, profaning the Sabbath, or Gods name, and ſuch as offend againſt the Statute made for the poor, and againſt Rogues.

Sect. 8. In giving an account. The laſt part of their duty is in giving an account. 1. They are within four dayes after the end of their year, and after others are appointed, to give account to two Juſtices of the Peace what they have received, or rated and not received, 43. *Eliz.* 2.

2 What ſtock they have in their hands, or is in the hands of any of the poor.

3 What Apprentices they have bound.

4 What poor they have ſet on work.

5 Whom they have ſuffered to wander.

6 Whether they have met monthly.

7 How they have made and levied their Rates

8. How they have executed the Juſtices warrant.

9. The mony in their hands they are to deliver over to their ſucceſſours, or forfeit twenty ſhillings, which may be levied by warrant from two ſuch Juſtices to the Church wardens and overſeers.

Sect. 9. What poor may beg. No poor may beg but in their own pariſh, and that by licenſe of the overſeers. Neither may any give Alms at their door, but to ſuch poor, under pain of ten ſhillings.

The power and duty of the Juſtices of Peace out of Seſſions herein. Nor can any Juſtice of Peace licenſe the poore to begge in any caſe. *Dalt. J. P. f.* 153. 152.

1 Any one Juſtice of the Peace who may appoint overſeers of the poore, may ſend to the houſe of Correction, or common Gaole, any thrift-

thriftleſſe or idle poor that will not work, being thereunto appointed by the overſeers, or that are otherwiſe diſorderly, by 21. *Jac.* 28. 43. *Eliz.* 2. *Dalt. J. P.* 121. 173. 7. *Jac.* 4. Cap. 19.

2 But there muſt bee two Juſtices of Peace, *Quorum unus*, to execute the Statute of 43. *Eliz.* about the poor. *In making Over-ſeers.*

3 And two of theſe neareſt to the place, muſt yearly in the Eaſter week, or within a month after Eaſter, under their hands and ſeales, appoint two, or more overſeers with the Churchwardens, to look to the poor, *ſub pœna* 5 l. to every Juſtice of that diviſion; and theſe Overſeers and Church-wardens, with the Juſtices conſent, are to make rates, bind Apprentices, ſet the able poor on work, and provide for the impotent poor. And if any be grieved with the Act of theſe two Juſtices of Peace, they may appeal to the Quarter Seſſions, 43. *Eliz.*

4 And two Juſtices muſt confirm the overſeers rates, and may enforce the payment thereof, and require an account of them by impriſonment, on their refuſall, and force them and others that have any ſtock in their hands, by diſtreſſe and ſale of goods, to pay their ſucceſſors the mony in their hands. *In rating and levying of money.*

Theſe Juſtices may, if they perceive the pariſh not able to bear the poor, charge any place within that Hundred, to pay to the overſeers of the poor of this pariſh, what ſummes they thinke fit. 43. *Eliz.* 2. But if they go further then the Hundred, it muſt be done at the Quarter Seſſions. And if the Juſtices of Peace at their Quarter Seſſions ſet a rate upon the parents, grandparents, or children, and they pay it not, they for-

Cap. 19. forfeit twenty ſhillings a moneth The which money theſe two Juſtices may give their Warrant to the Churchwardens and Overſeers to levie by diſtreſſe and ſale of their goods; or in default thereof, they may ſend the party to priſon till he pay it, 43. *Eliz.* 2. Alſo they may ſend their Warrant to the preſent or ſubſequent Overſeers and Churchwardens, to levie by diſtreſſe and ſale of goods, all the Rates and Arrears thereof, and any money behind in account in any Overſeers hand. And for want thereof may commit them to Gaol till they have paid it. 43. *Eliz.* 2.

Commitment.

In making Apprentices

6. They may puniſh in ſuch ſort as before, ſuch as refuſe to take Apprentices appointed to them, and ſuch as refuſe to let their children be bound Apprentices.

In ſetting poor on work.

7. Any two Juſtices of Peace may take order to ſet on work Souldiers, and Mariners that come from Sea, if they cannot get work where they live. 39. *Eliz.* 4.

In taking an account.

8. They may compel and take the account of the Overſeers and Churchwardens every year at the end of their year, 43. *Eliz.* 2. and make them pay that which is in their hands, *ſub pœna* twenty ſhillings. They may take the account of Parſons, Conſtables, Churchwardens, and Overſeers, who have the diſpoſall of any ſumms of money given ſince 4. *Jac.* to be imployed for the binding of Apprentices, who are bound once a year within a moneth of Eaſter, to give them an account thereof.

9. The Churchwardens and Overſeers in the firſt caſe, they may force by ſale of their goods, or for want of goods, by impriſonment.

10. Any

10. Any two Juſtices of Peace may licenſe poor people to go to *Bath* for cure of their diſeaſes: them that ſuffer ſhipwrack, and poor Souldiers and Mariners, to goe from their place of landing, to their place of birth, or laſt habitation; but in no caſe can they licenſe them to beg. But a poor Souldier or Mariner in his way home, may beg by 39. *Eliz.* 17. One Juſtice may licenſe a Souldier, or Mariner, landing here, and give him a convenient time to go to the place whither he would go. Cap. 19. In giving licenſe to travell, or beg.

As touching Rogues, theſe three things are to be known. 1. That a Rogue, or a wanderer (being all one) is an idle Begger that doth wander and loyter abroad from place to place, without a lawfull Paſport, whether he beg or not. *Sect.* 11. What a Rogue is.

And firſt, all perſons above ſeven years old, that go about begging or wandring idly, under any pretence whatſoever; but a child under ſeven years old cannot be a Rogue. 2. All idle perſons that go about uſing unlawfull Arts, as Juglers, Fortune-tellers, &c. 3. All Proctors, Patent-gatherers, Collectors for Gaols, priſons or Hoſpitals, (but not Patent-gatherers for fire.) 4. All Fencers, Bear-wards, common Players of Enterludes, and Minſtrels, wandring abroad. 5. All Pedlers, Tinkers, Petty-chapmen, and Glaſſe men wandring abroad; eſpecially if they be unknown, and have no good Teſtimoniall. 6. All wandring perſons, and common Labourers, being able to work, that loyter, and refuſe to worke for reaſonable wages, not having whereon to live. *Reſol. Tem. Eliz.* 10. 7. Such as

Cap. 19. as having licenſe from the Overſeers, to begge in their own Pariſh, do beg elſewhere. *Idem.* 15. 8. Thoſe who wander in the habit of Egyptians, not being Felons. 9. Souldiers and Mariners that beg, eſpecially if they counterfeit a certificate of their Commanders, not being Felons. 10. Perſons that go to or from *Bath*, and do not purſue their Licenſe. 11. A Rogue whipped, that doth not purſue the directions of his Teſtimoniall, or that doth begge. 12. He that doth go with a generall Paſport, and not from pariſh to pariſh. 13. He that ſhall go with his Paſport himſelfe without a guide: yea, it is held now that none can go with a Paſport, but he will be a rogue, and that all Paſports are void. 14. *Servants* that go out of their Pariſhes in ſervice into another, without a Teſtimoniall, or with a forged Teſtimoniall. 5. *Eliz.* 4. 15. Such as run away, or threaten to run from their charges, and to leave them to the Pariſh. 7. *Jac.* 4. 16. A Souldier or Mariner that hath a penſion, and ſhall beg or counterfeit a certificate. 43. *Eliz.* 3. 17. Thoſe that are ſick of the plague, and wilfully go abroad in company, contrary to the Officers command. All theſe are held to be rogues. And a *Feme covert* being a vagrant, is to be accounted a rogue as well as a man, *Dalt.* J. P. *chap.* 47. 21. *Jac.* 28. 39. *Eliz.* 4. 1. *Jac.* 7. But if the Parents were not rogues, the children ſhall not be accounted ſo, unleſſe they beg and become ſo.

Sect. 12. What ſhall be done with him.

Firſt, he muſt be whipped openly, till his body be bloody. 2. He muſt have a Paſſe or Teſtimoniall under the hand and ſeal of one Juſtice of Peace, or under the hands and ſeals of the

the Minister, Constable, and one of the Parish besides, appointing him whither he shall go, which way, and in what time. 3. With this Passe he is to be sent and conveyed from parish to parish by the Officers thereof, the next way to the parish where he was born, if it may be known by his confession, or otherwise: If not, then to the parish where he last dwelt before the same punishment by the space of one year. 39. *Eliz.* 4. Or if neither can be known, then to the parish through which he last past without punishment; and the Officer thereof shall carry him to the correction house, or common Gaol, where he is to be till he be placed (if able) in service, if otherwise, in an Almes-house. Cap. 19.

Upon which branches these things are to be known. 1. Generally, the wife and children must go and be with the husband and parents. And if a wife become vagrant, she is to be sent to her husband. *Resol. of the Judges, Temp. Eliz.* 2. None shall be forced to turn rogue, so as to be sent, &c. 3. None but a rogue is to be thus used; for if a servant be out of his time, or is idle, or go into another parish, and is there idle, he is not so to be handled. So if a Traveller passe through a Parish. 4. The child of a woman hanged for felony, is to be sent to the place of its birth; and if that cannot be knowne, to the place where she was taken. 5. He that doth run, or threaten to run from his charge, &c. Such persons as being allowed by the Overseers to begge, exceed their license. Such as have been infected with the plague, and able idle persons, that being poor, refuse to work, are not upon their delivery to be sent unto

Cap. 19. to their place of birth, but to their place of dwelling, if they have any; if not, where they last dwelt for a year. *Dalt. J. P. f.* 181. For no man is to be put out of the Town where he dwelleth, or to be sent to his place of birth, or last habitation, but a vagrant Rogue, (that is) such a one as doth wander abroad in the Country, and not others, and the loyterer that will not work for the wages assessed, may bee sent to the house of correction. *Resol. of the Judges, Temp. Eliz.* 9. See more of this before, on *Settlement of the Poor.* 5. He that is found in the privy search, may be punished by the Justice of Peace, or sent to the house of Correction, there to be set on work. 6. He is not to be relieved: if any officer give him mony, or an Ale house-keeper lodg him, he forfeits ten shillings. *Dal. J. P f.* 156. 157. 7. He that doth any thing in hinderance of the Execution of the Statute doth forfeit 5 l. and to be bound to the good Behaviour. 31. *Eliz.* 4. 8. Such a one as is able to labour, and thereby to help himself and his, and doth threaten to run away, and leave his charge to the parish, or doth so.

Commitment.

Sect. 13. Incorrigible Rogues, who, and what is to be done with them.

Such a one as doth appear to be dangerous to the People, that doth offer violence, or use any threatning speeches towards them, or will not leave his roguish life; but either being punished and sent home, doth rogue again, or affirm that he was born in such a place, or last dwelt a year in such a Town, and when he is come thither, it appears to be false. *Dalt. J. P.* 151. These are by the Constables to be brought before the next Justice of Peace, who may secure them. And two Justices of Peace may send them to

Commitment.

the

the Houſe of Correction, or Gaol, till Quarter Seſſions, and then they are to be branded on the left ſhoulder with an hot iron, &c. and from the Seſſions to be ſent to the place of their laſt habitation. 1.*Jac.*7.25. And he that falſifieth the place of his birth, is to be ſent away by the two next Juſtices of that place. Cap. 19.

Any one Juſtice of Peace may cauſe a Souldier or Mariner that hath a penſion, and ſhall beg, or ſhall counterfeit a Certificate, 43.*Eliz.* or any other Rogues and Vagabonds which ſhall be begging, wandring, or miſ-ordering themſelves, to be whipped and ſent to their place of birth, &c. with a Teſtimoniall of their Correction, the place to which they are to go, and the time in which they are to go it; or ſecure an incorrigible Rogue till two Juſtices can ſend him to Gaol, &c. 39.*Eliz.*4.1.*Jac.*7. But there muſt be two Juſtices of peace, *Quorum unus*, that may by Warrant under their hands and ſeals, upon Confeſſion of the offence, or proof of two witneſſes, cauſe to bee levied by diſtreſſe and ſale of the Goods of the offender, all the Forfeitures upon 39.*Eliz.*4.1.*Jac.*7. *viz.* five ſhillings of the Miniſter for not keeping a Regiſter Book, ten ſhillings of the Conſtable for not doing his endeavour to puniſh and ſend home Rogues, twenty ſhillings of him for not puniſhing and ſending away a Rogue that is brought to him by another, ten ſhillings of any man that doth not apprehend him at his houſe begging, or that bring them out of *Ireland* hither. And to diſpoſe of the money to the uſe of the poor, or for Bridewell, according to their diſcretion. So alſo there muſt be two ſuch Juſtices

Sect. 14. The power and duty of a Juſtice of Peace herein out of Seſſions.

Cap. 19. ſtices, that upon confeſſion or prooſe of two Witneſſes, may by Warrant under their hands and ſeals levie five pounds by Diſtreſſe and ſale of Goods, and binde to the good Behaviour ſuch as hinder the Execution of the Statute of 39. *Eliz.* 4. for Rogues; as the officers that ſhall ſend a Rogue by a generall Paſport, or refuſe to receive a Rogue being brought to him, or ſhall ſhift him away, or ſhall not deliver him to the next pariſh, or any perſon that ſhall reſcue, or ſhift away a Rogue; or the Church-wardens and Over-ſeers of Pariſhes, that having ſuch a one duly ſent to them, refuſe him; or being duly ſetled, remove him. So there muſt be two ſuch Juſtices to hear and determine any other Queſtion upon the Statute of Rogues, which it ſeems they have power to doe out of Seſſions, as well as in Seſſions. *Dalt. J. P. f.* 156. 39. *Eliz.* 4.

Good behaviour.

Alſo there muſt be two ſuch Juſtices to ſend to the houſe of Correction or Gaol ſuch as do run away and leave their Families; or that may, upon oath of two witneſſes, ſend to the Houſe of Correction ſuch as threaten onely to do ſo, except they give ſecurity to ſave the Pariſh harmeleſſe. 7. *Jac.* 4. or to commit any incorrigible Rogues to *Bridewell*; and it ſeems alſo, that two Juſtices may meet twice in a year, or more, for the Execution of the Statute of 7. *Jac.* 4. againſt Rogues, may four or five days before ſend their Warrants for a privie ſearch, and to apprehend and bring them before them, and to require then all the Conſtables of Hundreds and Pariſhes to be there, and upon Oath under the Miniſters hand to preſent what

Search. Warrant.

Rogues

Rogues they have taken, punished, and sent away, and fine forty shillings or under, any of them for their default of not appearing, or not returning, or for not executing the Justices Warrants in the convey of Rogues to the House of Correction. 7. *Iac.* 4. 21. *Iac.* 28. But it is convenient there be more than two Justices at this Meeting. *Dalt. I. P. f.* 157. Cap. 20.

CHAP. XX.

Of Masters, Servants, Apprentices, and Labourers.

Sect. 1. Who may use Trades. Apprentice.

FOr the better understanding of the Law touching Masters, Servants, Apprentices, and Labourers, these things must bee known. The words of the Statute in this case are these: None but such as now lawfully use or exercise any Art, Mystery, or manual occupation, shall set up, occupy, use, or exercise any Craft, Mystery, or Occupation now used or occupied within the Realm of *England* or *Wales*, except he shall have been brought up therein seven years at the least as Apprentice, in manner and forme above-said, *sub pœna* forty shillings a month. 5 *El.* 4. 4. *Ph. & M.* 5. 188. 1. *Jac.* 22. For opening of which branch, these things must be taken in. 1. Any man by the common Law might have used any Trade, or as many Trades as he please; and all Ordinances of Restraint

Cap. 20. herein were void. But now it seems a man may not use divers Trades, unless he have been Apprentice to them. But if the Master be a Mercer, and he did always sell Grocery Wares, the servant may do so likewise. 2. By manual Occupation is meant Clothier, Weaver, Dier, Tailer, *Butcher*, *Baker*, *Brewer*, Cook, Chandler, Millard, the trades undernamed, and the like Yet it seems, the *Statute* doth intend other Trades as well as manual occupations. 3. Sale by Retail is an occupation within this Statute. 4. One may be, or hire and keep a Chandler, Millard, *Baker*, *Brewer*, Cook, or Tailer for his own use, that hath not been trained up in it, nor Apprentice to it; for it is the publick and common use of the trade to get a living by, and for gain, not the private use, which the Statute intendeth: but he cannot retain an Apprentice in the trade. 5. To make a man of a trade, he must be Apprentice to him, who did openly, commonly, and by publick profession, sell, & not privatly by stealth. 6. If a Tradesman die, his Wife cannot use this trade, except it be in *London*, which is by special custom; and a Tanners Wife in a special case by 1 *Jac.* 22. 7. It is sufficient to inable a man to a trade, that he hath been brought up seven years in it, though he be not bound by Indenture. *But* in some cases by the Statute he must be bound by Indenture, and as an Apprentice. 5. *Eliz.* 4. *Dal. J. P.* 99.

Infant. 8. An Infant under twenty and one years old, may bind himself Apprentice by Indenture according to the Statute of 5 *Eliz.* 4. *Dalt. J. P.* 100, 101. And if he bind himself otherwise then by Indenture, it seems it will bind him, by *Trin.* 21. *Jac. Cook B. per curiam.* But if the

the Agreement be againſt the Statute of 5. *Eliz.* it is void. Cap. 20.

9. No Butcher during the time he doth exerciſe that Trade, can uſe the Trade of a Tanner, *ſub pœna* ſix ſhillings eight pence a day. 1. *Jac.* 22.

10. No Currier during the time he doth exerciſe that Trade, can uſe the Trade of a Tanner, Cordwainer, Shoo-maker, Butcher, or other uſing cutting of Leather, *ſub pœna* 6. s. 8. d. a Hide. 1. *Jac.* 22.

See 5. *Eliz.* 5. for Mariners and Gunners, and 2, & 3. *Ph. & Mar.* 11. about Weavers.

Sect. 2. Who may be compelled to ſerve, and how.

1. All thoſe that are unmarried, and others under thirty years old, that have been brought up in the Trades under-named, [in Retainer,] or that uſed them three years or more, not having in any kind of Land, or Rent, an Eſtate in Fee, or for Life *de claro*, 40. s. *per annum*, nor in goods, 10. l. *de claro*, and ſo allowed by the two next Juſtices under their hands and ſeals, not being retained with any in Husbandry, or in either of the ſaid Trades, or ſome other, or lawfully retained, and in Office or ſervice with ſome Nobleman, Gentleman, or other; Nor having a convenient Farm or Tillage of his own whereabout he is imployed, upon requeſt of any one uſing the ſame Trade, ſhall be retained by him. 5. *Eliz.* 4. And if they refuſe to ſerve for the Wages aſſeſſed, or promiſe to ſerve, and do not 3 any one Juſtice of Peace upon complaint may hear the matter, and if he find them faulty, commit them, till they give bond to the Maſters to conform, and to ſerve according to the Law. In Trades.

Cap. 20. 2. The man-childe may be bound till he is 24 years of age, and the woman till 21, of those Poor of such Parents who are not able to maintain them.

In Husbandry. 3. All persons of men-kind, between the age of twelve and sixty, not using the Seas, nor in service with any Fisher, Husbandman, Kidder, or Carrier of corne and meal for *London*; nor in any city or market town with any Tradesman there allowed to take an Apprentice, nor being retained by the year, or half year, about the seeking or working of Silver, Tinn, Lead, Iron, Copper, Stone, Coal, making of Glasse, or not being a Gentleman born, a Student or Scholar in any University or School, not having in Land or Rent, in Fee or for life, *de claro* forty shillings *per annum*, nor in Goods ten li. nor having a Father or other Ancestor living whose Heir he is, and that hath such Lands of ten pounds a year, or Goods of forty pounds, not being retained, nor having a Farm [as before in the last clause] nor otherwise lawfully retained according to this Statute, shall be forced to serve by the yeare in Husbandry, the Husbandman that shall require him. 5. *Eliz.* 4. And if they refuse to serve for the Wages appointed, or promise to serve, and do not, any one Justice of Peace upon complaint may hear the matter, and if he find them guilty, commit them till they give bond to their Masters to conform, and to serve according to this Law.

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Women. 4. And such Woman as is twelve years old, and under forty, and unmarried, and out of service, if the Justices see her fit to serve by the year, week, or day, they may compell to serve for

for such Wages, and in such sort, as the Justices think meet. 5. *Eliz.* 4. or commit her to prison, till she give bond to do it. Cap. 20

5. None is to be compelled to be bound an Apprentice after he is twenty one years old, 5. *Eliz.* 4.

6. In Harvest time to save the corn, and when need is, any Justice on complaint may compell those Artificers and others, to work in that work he thinks them fit for, by the day. And if he refuse, put him in the *S*tocks two days and a night; and this the Constable must do, *sub pœna* 40. s. 5. *Eliz.* 4.

For the better understanding of which branches, these things must be known: 1. He that hath not sufficient lands to occupy or live upon, or another trade, is compellable to serve. 2. That if any of these men or women, not able to live at their owne hands by any visible meanes they have, bee warned by two Justices of the Peace, to put themselves in service, by a day set them, and they do not; but continue to work at their owne hands, they may bee bound to appear at the next Sessions, or Assizes, and to be of good behaviour in the mean time, or may be sent to the house of correction. *Resolved of the Judges. temp. Car.* 17. 3. One that wandreth may be forced to serve; but his first master, if he have any, will have him again. 4. The children that overseers of the poor may bind, must be above seven. See *Poor.* *Sect.* 3. Good behaviour.

Sect. 4.

1. VVollen cloth VVeavers, making cloth commonly to be sold by Clothiers (except such as live in the Counties of *Cumberland*, *Westmerland* About retainer, hiring & keeping.

Cap. 20. Of Apprentices,

land, Lancaster and *Wales*, that weave Frizes, Cottons, or Housewives cloth only) may not take any Apprentice, or instruct any one but his sonne in their Trade, in any place but Cities, Towns corporate, or Marker Towns, unlesse the Father or Mother of the Apprentice have at that time an estate in Fee, or for Life, of some hereditaments *de claro* three pounds *per annum*, to bee certified by three Justices under their hands and seales. The tenor of the Indenture to be registred in the parish where the Master dwels, *sub pœna* twenty shillings a month. 5. *Eliz.* 4. 2. Every Housholder using half a Plowland, or more in Tillage, may by Indenture take to his Apprentice in Husbandry any one above ten, and under eighteen years old, untill his age of 21 at the least, or until his age of twenty four, as they can agree. And he may require it: and if the party refuse to be bound, he may be enforced to it upon his complaint, by a Justice of Peace. 5. *Eliz.* 4. 3. Every Housholder in any Market Town not corporate, of 24 years old, using any Trade, Art, or mystery there (he not being a Husbandman, or Labourer) so long as he useth the Trade, and the town is a Market town, may take to his Apprentice the Child of any other Artificer (not being Husbandman or Labourer) of the same or any such like town in the County, to any Trade commonly used in that Town (after the custome of *London*) for seven years, so that it end not before he be twenty four years old, 5. *Eliz.* 4.

Every Housholder in any City or Town corporate, of twenty foure yeares old, using any Trade, Art, or Mystery there, may, during the time

time he ſhall inhabit there, and uſe that Trade, Cap. 20.
retain the Sonne of any Free-man therein, or in any ſuch Town (not being a Husbandman or Labourer) to be his Apprentice (after the cuſtome of the Citie of *London*) for ſeven years at leaſt, ſo as it end not before he be twenty foure years old, 5. *Eliz.* 4.

But he that lives in a Market town not corporate, and uſeth the Myſtery and craft of a Merchant trading beyond the Seas, Mercer, Draper, Goldſmith, Ironmonger, Embroiderer or Clothier that doth put cloth to ſale, may not take an Apprentice, or inſtruct any one in that Trade except he be his own ſon, or the Father or Mother of the Apprentice have at the time of the taking of him, an eſtate in Fee, or for Life, of ſome hereditaments *de claro*, three pounds a yeare at leaſt, to be certified under the hands and ſeales of three Juſtices of the County, to the head Officer of that City or Town. And any ſuch perſon as liveth in a Citie, or Towne corporate, muſt take no Apprentice, except his parents have forty ſhillings a year [as in the laſt in every particular.] 5. *London*, *Norwich*, and *Godalming* in *Surrey*, may take Apprentices according to their cuſtomes, 5. *Eliz.* 4. 6. The Smith, Plow-wright, Wheel-wright, Mil-wright, Carpenter, Rough-maſon, Plaiſterer, Sawyer, Lime-burner, Brick-maker, Brick layer, Tyler, Slater, Hellier, Tyle-maker, Linen-weaver, Turner, Cowper, Miller, Earthen-potter, Wollen-weaver, weaving Huſwives or Houſhold cloth only, Fuller, or Tucker, or Walker, Burner of Oare and Woad-aſhes, Thatcher or Skingler, may take any Apprentices in their

Cap. 20. trades, though their parents have no eſtate in lands at all. 5. *Eliz.* 4. 7. He that is retained as an Apprentice, muſt in ſome caſes be retained by Indenture, and by the name of an Apprentice. 5. *Eliz.* 4. But another Servant may be retained by word. 8. Hee that is under twenty one yeers old, and is bound by Indenture to any Art, or Trade, according to the tenor of this Statute, is bound as much as if he were of full age. 5. *Eliz.* And ſo in other caſes. 9. If any retain any Apprentice contrary to the true meaning of this Statute, he forfeits ten pounds. And all Indentures, Promiſes, Covenants, and Bargains, for the taking or keeping of any Apprentice otherwiſe then is appointed by this Statute, are void to all intents in Law. 5. *Eliz.* 4. 10. He that hath three Apprentices in the Trades of Cloth-maker, Fuller, Shearman, VVeaver, Tayler or Shoomaker, muſt keep one Journeyman. And for every other Apprentice above the number of three, one Journeyman, *ſub pœna* ten pounds. 5. *Eliz.* 4. 11. In the Statute of 5. *Eliz. ab.* 4. after the clauſe before, forbidding ſuch as have not been Apprentices to uſe Trades, theſe words follow, (*viz.*) None may ſet any perſon on work in any Myſtery, Art, or Occupation, being not a workman at this day, except he ſhall have been Apprentice, as is aforeſaid, or elſe having ſerved as an Apprentice, as is aforeſaid, ſhall become a Journey man, or hired by the yeare, *ſub pœna* 40. s. a month. 12. None may hire any perſon, or be hired to ſerve or work with him for leſſe time then one year in theſe trades, *viz.* of Clothiers, VVollen cloth Weavers, Tuckers,

ers, Cloth-workers, Fullers, Shearmen, Dyers, Hosiers, Taylers Shoomakers, Tanners, Pewterers, Bakers, Brewers, Glovers, Smiths Farriers, Curriers, Sadlers, Spurriers, Turners, Cappers, Hat-makers, or Felt-makers, Bowyers, Fletchers, Arrow-head-makers, Butchers, Cooks, Millards, 5. *Eliz.* 5. By *Dalt. J. P. f.* 97 This clause extendeth onely to these Trades, not to husbandry: Yet (saith he) no retainer of any servant for lesse than a year, is good. *Quære*, For then the assessing of wages for lesse time were void. It must be directed therefore to retainers for husbandry by that branch before, by which men are compelled to serve by the year in husbandry; but by agreement they may serve for lesse time. After the clause in the Statute of 5. *Eliz.* forbidding any to give or take more than the wages assessed, this clause followeth, (viz.) And that every retainer, promise, gift, or payment of wages, or other thing whatsoever contrary to the true meaning of this Statute, and every writing and bond to that purpose, shall bee void and of none effect. 13. If any Master retain a servant that hath not brought his Testimoniall, and shewed it to the chief Officer of the place where he is to bee retained, he is to lose 5 *l.* 5 *Eliz.* 4. Cap. 20

For the clearing of which, these things are to be known: 1. By the retainer the servant is presently in service by law, though he be not so indeed, and therefore his not coming is a departure. 2. If the retainer be by one, that by the Statute is not able to keep a servant, it is void. 3. If a retainer be generally, and they agree not how long, it shall be for a year. 4. If one retaine for *Sect.* 5.

Cap. 20. for forty dayes, and after another doth retain for a year, the first is void and the last good. 5. If the retainer be to serve according to the Statute, on condition, or generally, and say not what to do for three years, or for life, and no wages spoken of, it is good. *Dalt. Just. P. ch.* 31. But a retainer for a year to serve when he shall be required, or for forty dayes, is not good. 6. This Statute extends not to Serving-men, but is for Servants of Husbandmen, and Handicraftsmen. 7. If the retainer be by Deed, he may be bound by the Deed. For if one not compellable to serve in Husbandry, covenant to serve, he is bound by his covenant, and may be punished if he depart. 8. One cannot retaine an Apprentice in that Trade wherein himselfe hath not been brought up. 9. The certificate of three Justices to the Head of a Corporation, of the ability of the Parents of the Apprentice, is not necessary; but it is needfull that he be of that ability, *Dalt. J. P. f.* 98. 10. If one take an Infant, or other servant, out of anothers service, though he be not retained, it is punishable. *Dalt. J. P. ch.* 31. *Compleat Justice. f.* 148, 149. 11. See more in *Departure. 1. Ja.* 24. 3. *Ja.* 9. 1. *Ja.* 17. 16.

Sect. 6. How they must demean themselves one towards another. Masters, Apprentices, Servants.

1. The Master must not abuse his servant, but give him diet and wages, and what is fit, which they must not exceed; If he abuse his servant, he may have relieſe by the Justices of Peace, to whom he must make his complaint. 5. *Eliz.* 4. 2. The servant must carry himselfe dutifully and obediently: and if he do otherwise, he may be punished, and the Master is to complain to the Justice of Peace. If any Servant, Workman, or Labourer, wilfully or maliciously make

make an assault or an affray upon his Master or Mistresse, or any other appointed by them for the oversight of the work, he may be imprisoned or further punished for it. And if there be cause, the Justices of the Peace at the Sessions may discharge him of the Apprentiship. 5. *Eliz.* 4. 4. If any Labourer or Artificer that taketh upon him to do any work, do before he hath finished it, leave it, unlesse it be with the Masters license, for lack of pay, or that he is called to a publick service, or for other good cause, he shall be imprisoned one month, and forfeits 5. pound, which the Master may sue for in the Sessions, and recover above his damage at Common Law. 5. *Eliz.* 4. 5. They must work from the midst of March till the midst of September, from 5. till between 7. and 8. and all the rest of the year from the break of day till night, all the day, (except two hours and a halfe allowed for his meals,) *sub pœna*, one peny for every hour he is idle, to keep out of his wages. 5. *Eliz.* 4. 6. If a Servant be put away by his Master without cause, it seems he shall have all his wages. And if he be of age, and agreeth to part, yet he shall have his wages *pro rata* for the time of his service, which the Justice of Peace may help him to, for he cannot sue for it. But if the servant of his own head depart before his time, he loseth his wages. 7. If the servant within his time fall sick, or lame, if it be in doing his Masters work, or by the act of God, it seems he is to have his wages. 8. If the servant be an Infant, yet if he do his work, he shall have his wages. 9. If the retainer be according to the Statute, the Executour of the Master after his death, shall be charged for

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Labourers.

Wages.

Cap. 20. for the wages. And if the retainer be by Deed, though it be not according to the Statute, if it be not againſt it, it ſeems the wages is recoverable. *Compleat Juſtice* 149. *Dalt. J. P. f.* 103.

Sect. 7. Aſſeſſment of wages. The wages of all Husbandmen, Artificers, Weavers, Spinſters, Labourers, Servants, and other Workmen whatſoever, by the year, month, week, day, or otherwiſe, with or without meat and drink; and what every man ſhall take by the great for mowing, reaping, or threſhing of Corne, for mowing and making of Hay, for ditching, paling, railing, or hedging by the rod, perch, lugge, yard, pole, or foot, and the like, muſt be ſet down by the Juſtices of Peace at their Quarter Seſſions next after Eaſter, or at a generall meeting within ſix weeks after Eaſter. And this the Sheriffe is to proclaime; which being done, every man is bound to obſerve them; ſo that if any refuſe to pay ſo much as they aſſeſſe, he is to forfeit ten ſhillings to the party grieved. And if the Maſter, directly or indirectly, agree for, or give more, he ſhal be impriſoned ten dayes without baile, and loſe five pounds. And if the Servant agree for, or take more, he is to be impriſoned 21 dayes without baile. But it ſeems they are not bound to this Rate on either ſide, till it be proclaimed. 5. *Eliz.* 4. 6. *Fat.* 1.

Sect. 8. About diſcharging, & putting away of Servants, or apprentices. 1. None may put away his Apprentice himſelfe, nor can bee diſcharged but by order at the Quarter Seſſions, under the hands and ſeals of four Juſtices, *Quorum unus.* 5. *Eliz.* 4.

2. None that retaineth a ſervant, may put him or her away before the end of their terme without

out cauſe allowed by one or more Juſtices of the Peace, nor then without giving a quarters warning, *ſub pœna* 40.s. if he cannot prove by two witneſſes hee had cauſe allowed, and did give warning. 5. *Eliz.* 4. For clearing of which, know this, 1. The Maſter cannot diſcharge his Servant within the time, unleſſe they both agree to it, by which it may be done if they bee both of age. 2. An Apprentice cannot be diſcharged by word, as another ſervant may bee, but it muſt be by writing. 3. If a woman ſervant marry, yet ſhe muſt not be put away, but muſt ſerve her time. So if two married people bind themſelves, they muſt ſerve the time. 4. If a woman with childe be hired, and the Maſter know not of it, he cannot, but the Juſtice of Peace may put her away for this cauſe, before the end of her terme. But if ſhe be gotten with childe in his ſervice, ſhe is not to be put away till the end of her terme. *Reſol. of the Judges. tempore Caroli Regis* 21. 5. The Maſter may not put away his ſervant, becauſe he is ſick, lame, or the like, within the time. 6. If the Maſter wil not allow the ſervant neceſſary food, lodging and the like; or will not pay him his Wages, or the like; or correct him immoderately, or will not licenſe him to depart; the Juſtice of Peace may allow him to depart, but he cannot depart of himſelf. 7. A ſervant cannot be diſcharged by his maſter, without his own Agreement, or for ſome cauſe allowed by a Juſtice of Peace. 8. Some ſay, an Apprentice cannot bee diſcharged by his Maſter without writing: But this is doubtfull, for if the Retainer may be by Paroll (as in ſome caſes it may be)

Cap. 20.

Cap. 20. be) it seems the discharge may be so also. 9. It is thought by some, that the Servant with the mutual consent of Master and Servant, may be put away, and that this may be without the allowance of a Justice of Peace. *Dal. J. P. f.*102.

Act. 9. About departure of servants or apprentices.

1. The not coming of a Servant hired, according to his covenant, is a departure in Law. *Dal. J. P.*

2. No Servant retained according to the Statute, shall without cause allowed by one Justice of Peace, depart out of his service before the end of his or their Term, 5. *Eliz.* 4. nor then without giving a Quarters warning before two Witnesses. And if he do, he may have remedy by two Justices of Peace, who may, (if upon Examination of the matter they find him faulty) commit him to Prison, till he give bond to his Master to serve him for the Wages appointed by the Statute.

3. No Apprentice may depart without License under hand and seal of four Justices of the Peace, *Quorum unus*, at the Quarter Sessions 5 *Eliz.* 4.

4. A departure may be in an Apprentice, or Servant that is hired otherwise than the Staute; as if any of those not compellable to serve, will voluntarly bind themselves, and contrary to their Agreement depart, they may be punished by the Statute. But if it be such a Retainer that is forbidden by the Statute; as for more Wages, lesse time, *&c.* then it seems the Statute makes it void. And if there be no Retainer, there can be no departure.

Testimonial

5. No person retained in any of the Trades above-

aboveſaid, or in Husbandry, may at the end of his Terme depart out of one place into another, without he have a Teſtimonial in writing, under the ſeal of the City, if it were from a City; or the Conſtable, or other head officer, and two honeſt Houſholders of the place where he laſt ſerved, to ſhew his lawfull departure, and from whence he came, *&c.* 5. *Eliz.* 4. And he that doth ſo, is to be impriſoned till he get one, which if he get not within twenty one dayes after Impriſonment; or if he counterfeit or forge his Teſtimoniall, he is to be whipped and uſed as a Vagabond. Labourers that have been uſed to go into other Countries at Harveſt time, and for harveſt work, may go thither, if there be not ſufficient in their own county, as they have been uſed; but then they muſt bring with them a Teſtimonial under the hand and ſeal of one Juſtice of the Peace of the county, 5. *Eliz.* 4. For clearing theſe things, know this. 1. A woman-ſervant being married cannot depart, but muſt ſerve her time. So if two married people bind themſelves. 2. If he come not according to promiſe, or refuſe to do his work, though he ſtay with him, this is a departure in Law. 3. If a ſervant depart, his Maſter may take him again, retain him. 4. They that cannot be put away, cannot depart without leave, or Agreement. (*See before.*)

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Of Labourers.

6. All the Offences againſt this Statute may be puniſhed at the Quarter Seſſions, or Speciall Seſſions. 5. *Eliz.* 4. 31. *Eliz.* 4. The Forfeitures out of Corporations for theſe Offences go halfe to the King, and half to him that will ſue, 5. *Eliz.* 4.

Any

Cap. 20. *Sect.* 10. How such Offenders shall be punished; The power and duty of Justices of Peace herein out of Sessions.

Any one Justice of Peace may do these following things, *viz.* 1. Upon request, put in the Stocks two dayes, and one night, such as be in their discretion fit to work by day in the Harvest time for saving of Corn, or Hay, and required, refuse so to do. 2. Command vagrant persons to prison, that will not serve. 3. Upon the complaint of the Husbandman, that hath half a Plough-land, or more, or other, compell such a one, as he in his discretion shall think fit to be bound Apprentice with the Husbandman, or other in Husbandry, or other Trade, *&c.* if he desire him, and on refusall, imprison him till he do conform. 4. Upon confession, or proof, send an Apprentice that purloyneth twelve pence, or above of his Masters goods, and all his Accessaries to Gaol; or if it be under twelve pence, to the House of Correction. 5. License under his hand and seale, Labourers in Harvest time, to passe out of one County into another. 6. Allow of the cause of putting away, or the departure of a servant within his time; otherwise of an Apprentice. 7. Send to the Gaol or House of Correction, common Labourers that will not work for the wages assessed; and others that have nothing but their labour to maintaine them, and will not work for reasonable wages; and Apprentices that run from their Masters, or are otherwise disorderly. 8. Upon complaint of the Master, Servant, or Apprentice, of any wrong done to other, in their parting before the end of the term, hear and determine the difference, and according to his discretion set down an order between them, and if the Master refuse to obey it, bind him to appear at Sessi-

Commitment. Apprentice.

Commitment.

House of Correction. License.

Departure.

Commitment.

Apprentices.

Order.

Bind over.

ons;

ons; and if the fault be in the Servant, or Apprentice, ſend him to the Houſe of Correction; or perhaps he may bind him to the good Behaviour, eſpecially if he refuſe to obey his order; and then he muſt bind him to appear at *Seſſions*. 9. Upon complaint, that a Servant refuſeth to ſerve, or to ſerve for wages appointed, or to do his duty, or departeth before his term ended, is run away, or of a ſervant, that he doth abuſe his Maſter, or the like; he may as it ſeems, ſend for the Party, and bind him to appear at the next Seſſions of the Peace, or happily he may ſend him to the Houſe of correction, or bind him to the good *Behaviour*: and if the Maſter put away the Servant, the Juſtice it ſeems, may bind him to anſwer the matter at Seſſions. 10. By Agreement between the Maſter and Apprentice, and by writing under the Maſters hand, it ſeems, he may diſcharge the Apprentice. 43. *Eliz.* 2. 7. *Jac.* 4. 21. *Jac.* 28. 5. *Eliz.* 4. *Dalt. I. P. c.* 31.

Cap. 20. Houſe of Correction. Good Behaviour. Bind over. Good Behaviour. Bind over.

But there muſt be two Juſtices, (and any two may do it) to do theſe things following. *viz.* 1. To bind to the Aſsizes or Seſsions, and to the good Behaviour in the *interim*, or to ſend to the Houſe of Correction ſuch as having no ability, had a day by them ſet to put themſelves into ſervice, and do not. *Reſ. of the Judges tem. R. C.* 17. 2. To puniſh the Servant retained according to the Statute by Impriſonment, till he give Bond to ſerve; or that before his term end, and without allowance of a Juſtice of Peace, departeth, or doth not come according to promiſe; or being come, doth not labour; or departeth at his terms end without giving a Quarters warning;

Sect. 11. Bind over. Good Behaviour. Houſe of Correction. Commitment.

Cap. 20. or the Master by forty shillings fine, that without such allowance putteth his servant away before the terme ends, or for not giving a Quarers warning at the end of the terme to his servant. 3. Upon complaint, to imprison such women above twelve, and under forty, as are compellable by the Statute to serve, and being required, refuse so to do, till they give bond to do it. And to imprison such as are compellable to serve in Husbandry, or other Trades, that refuse to serve for the wages assessed, till they give bond to do it, and then to be discharged without fee. 4. To punish the Master by fine of five pounds, and Imprisonment ten dayes, for giving more wages then is appointed, and to imprison the Servant twenty one dayes for taking it. 5. To put in prison for one year, or lesse time, the servant that is proved by his confession, or two Witnesses, to have made an Affray, or Assault on his Master, Mistris, or Governor. 6. To make a Testimoniall to a Servant that is to be turned away, or to go away after his Masters death. 7. To punish him by the five pounds fine, that retaineth a servant without a Testimonial. To commit them that hire servants for lesse then a year. To imprison Labourers, and fine thm five pounds, for departing from their work before it be done. But these three last things (it seems) must be done in a generall or special Sessions, and cannot be done otherwise: and it seems, in all these cases before, any two Justices of Peace, *Quorum unus*, have power to keep a speciall Sessions twice a year, between *Michaelmas* and *Christmas*; and *Lady day*, and *S. John Baptist*, wherein they are inabled by all the

Commitment.

Commitment.

Testimoniall.

Cómitment.

Sessions.

the ways they think fit, to make a diligent enquiry of the Execution of the Statute of the 5. *Eliz.* And where they find any default, to punish it; which they may do by indictment, Information, *&c.* And for this they are to have five shillings a day for three days out of the fines and forfeitures. 5. *El.* 4. 31. *El.* 5. *Dal. J. P. ca.* 13. And hence they may send process against one that is departed into another County. Cap. 20.

If any Clothier or others, refuse to give so much wages as is set down by the Justices of Peace, there must be two Justices of the Peace, *Quorum unus*, that upon his confession or proof of VVitnesses, may grant their VVarrant to distrain and sell his Goods to pay the forfeiture of ten shillings. To discharge an Apprentice of his Apprentiship against his Masters good will; or where the Apprentice is not of age to agree, or he was bound by others, it must be done by four Justices of the peace, *Quorum unus*, and that in the Sessions, and cannot be elsewhere. But it may be at this private Sessions, if there be so many there of the Justices. 5. *El.* 4. Two of the next Justices may in *Easter*, or within a month after, take the account of such as have the disposition of any mony for the placing of Apprentices in any parish within the County, by any mans gift. 7. *Jac* 3.

Sect. 12. Clothiers.

Warrant.

Apprentice. Discharge.

Account.

CHAP. XXI.

Of sending to Bridewell.

Loiterers.

ANy one Justice of the Peace may send to Bridewell him that will not work by the appointment of the Over-seers of the Poor, or common Labourers which refuse to work for the Wages assessed, or for reasonoble VVages, if they be such as have nothing but their work to live upon. *Dal.J.P.f.* 121. 39. *Eliz.*4. 43.*El.*2. 7.*Jac.*4. So a common hedg-breaker, or Robber of Orchards, against 43 *El.* 7.*Dal.J.P.fol.*173. So one Justice may send to Bridewell for three months, a blasphemous Heretick that shall deny the holinesse of God, upon the Act: of which see *ch.* 3. But there must be two Justices of Peace, *Quorum unus*, to send to the House of Correction, or gaol, on proof of two Witnesses, such as do run away, and leave their Families to the Parish; or upon Oath of two Witnesses to send to Bridewell such as threaten to do so, unlesse they give security to save the Parish harmlesse. 7.*Jac.*5. So to commit the woman thither a year, which hath a Bastard child, that may be chargeable to the Parish. So to commit thither one that doth begge beyond his License. So to commit thither such as being poore and not able to keep their children, yet will not suffer them to be bound Apprentices by the Overseers, but intice them away. So to commit thither an incorrigible Rogue; yet one Justice may secure him, till two Justices can come

Hedg breakers.

Such as run from their families.

Such as have bastards.

Vagrant.

Rogues.

come together. 7. *Jac.* 4. 39. *El.* 4. *Dalt. J. P.* 154 So also to commit thither any other wandring, idle, or disorderly persons. *The same.* A Bawd, or one that keeps a Bawdy-house, may bee sent thither; but this must be by the Court of the Sessions, upon the Act of 9. *August* 1648. Cap. 22

CHAP XXII.

Of Cloth, and Clothiers, Weavers, &c.

Sect. 1. The power and duty of Justices of Peace herein out of Sessions.

ANy one Justice of Peace may enter into any place and search for Tenters, wrinches, and such like engines, which are used for the deceitfull stretching of cloth; and finding any by view, or oath of two witnesses, he may deface them; and for the second offence sell them. But there must be two Justices of Peace to dispose of this money to the use of the poor. And if the Justice upon complaint to him, doth not search, he loseth five pounds. 39. *El.* 20. 43. *El.* 18.

Over-seers. Recognizance. Oath.

There must be two Justices to make Overseers of cloth, or Searchers: and they must binde them by oath and bond to doe their best, that these things may be observed. 1. That they do once a Quarter at least, search the clothes, whersoever they be, to see, 1. That the measure be according to the Statutes. 2. That the cloth be sealed, and the seal expresse the measure, and the names of the Overseers, *&c.* 3. That

Cap. 22. it be not ſtretched, nor ſhrunk more in wetting then a yard and a halfe in length, and halfe a quarter in breadth. 4. That no Tenters, *&c.* be uſed. 5. That no Iron Cards, or Pickards be uſed. 6. That no Cloth or Wooll be falſly died. 7. That no deceitfull ſtuffe be interpoſed. 8. That it be not deceitfully preſſed. 2. *Ed.* 6. 2. 39. *El.* 20 43. *El.* 20. 4 *Jac.* 2. 21. *Jac.* 18. 5. *Ed.* 6. 6. 7. *Jac.* 16. 3. *Jac.* 1.

Sect. 2. Any two Juſtices of Peace may, upon Information of any default given them by any Searcher or Over-ſeer of Cloth of any other, call

Warrant. before them any perſon known, or ſuſpected to offend by mixing Flocks, Nails, Thrums, or Hair, or any deceivable things in their making of Cloth; call & ſwear witneſſes for the examining of the matter, and if they find it true by proof of two witneſſes, or the parties confeſſion, notifie it to the Churchwardens and Overſeers of the Poor, and give them a Warrant to levie the Forfeiture by diſtreſſe, and ſale of goods, and for lack thereof, may commit the Offender to Gaol, till he pay the money. 21. *Jac.* 18.

Sect. 3. There muſt be two Juſtices, *Quorum unus*,

Warrant. upon proof of two witneſſes, or confeſſion of the party, to give warrant to levie by diſtreſſe, and ſale of goods, the ten ſhillings forfeiture upon Clothiers, and others that refuſe to pay their wages aſſeſſed by the Juſtices of Peace, at Eaſter Seſſions. 1 *Jac.* 6. So alſo there muſt be two ſuch Juſtices, who upon confeſſion, or proof of two Witneſſes, may fine five pounds, give warrant to levie it by diſtreſſe, and for want of diſtreſſe commit him to priſon, who doth put in any Flocks, *&c.* into broad Cloth, on 21. *Jac.* 1.

So

So to take information of the deceitfull uſage of linnen cloth, of him that ſeized it, and to bind him to give evidence at the Seſsions, on 1. El. 12. Cap. 22. But any two Juſtices may require Weavers, Carders, *&c.* and their receivers, knowing thereof, that imbezle or detain wooll or yarn, upon confeſsion of the Party, or oath of one witneſſe, to make ſatisfaction, according to their diſcretion, or cauſe them to be whipped or ſtocked. 7. *Jac.* 7. So alſo theſe two Juſtices may divide defective broad cloth preſented to them, into three parts, and give one part to the Over-ſeers of the cloth, and two parts to the poor, upon 4. *Jac.* 2. 4. *&* 5. *Ph. & Mar.* 5. 21. *Jac.* 18. So alſo they may divide defective cloths, Kerſies, Frizes. or Cottons, into three parts, upon 5. *&* 6. *Ed.* 6. But enquire if it may be done out of Seſsions. For the Statute is, that two Juſtices of the Peace may take the Preſentment of him that findeth the faulty cloth, to the intent the cloth may be cut into three equall parts, the one to the King, the other to the Preſenter, the third to him that it ſhall be preſented unto. And it ſeems it may. Every Juſtice beyond *Trent* hath ſome power herein for to ſee to the cloth of that Country. 39. *Eliz.* 28. 21. *Jac.* 18. But for the better knowledge of theſe things obſerve, 1. Theſe ſeverall deceits following.

Sect. 3. The ſeverall offences by deceits in making of Cloth, and the puniſhment.

1. Raiſing or Rowing of any kind of cloth, or Kerſey, with oyle, Gooſe-greaſe, Swines-greaſe, or laying on or in of any ſuch like liquid or moiſt thing of any kind of greaſe, or oil, ſave onely upon the edge of the ſheares, and not ſhearing it plain. 4. *Jac.* 2. 13 s. 4 d. forfeiture.

Cap. 22.

2 The raiſing, fulling, rowing or ſhearing the Liſts and ſides of Clothes, and Kerſies, better than the middle, and not doing all alike wel, thirtee n ſhillings four pence, *Idem*, 4 *Jac.*

3 The cutting and taking away of Wool from the back-ſides of Clothes, and Kerſies, with knives or ſuch like devices, it being only to be ſhorne with a pair of ſheares, thirteen ſhillings four pence, 4 *Jac.*

4 The blowing, ſpowting, or bedewing of Broad-cloth or Kerſies, on the ſides and edges neare the Liſts, with water or other liquid thing, whereby they may there appear better then in the midſt thereof, thirteen ſhillings four pence.

5 To do ſo of purpoſe to increaſe the weight, and deceive the buyers or ſearchers, forty ſhillings. But abatement to be allowed for dreſſing, &c. 4. *Jac.* 2.

6 To put flocks, nailes, hair, thrums, and lambs wooll, or other deceiveable ſtuffe, 43. *Eliz.* 10. 21 *Jac.* 18. into broad woollen cloth, five pounds, no more, to the poor. So to put in any chalk, flower or ſtarch, forty ſhillings. 3. & 4. *Ed.* 2.

7 But flocks, hair, and yarn made of Lambs wooll, may be put in white ſtraights made in Devonſhire and Cornwall, by the 27. *Eliz.* 18. and muſt have a ſpeciall mark, by 4. *Jac.* 2.

8 The making of them leſs in length, breadth or weight, then the Statute of 4. *Iac.* 2. which repealeth 6. Ed. 6. 4 & 5 *Ph. & M.* 27. *Eliz.* 17 35. *Eliz.* 7. 10. 11. 3. *Iac.* 10. as to this point, or leſſe then the ſeal purporteth. 4. *Iac* 2.

9. If it want weight, or exceed in length, a-

gainſt

gainſt 4. *Iac.* the Searchers or Over-ſeers that find, may certifie it by their ſeals, and have half the forfeiture, by 8. *Iac.* 2. And by 21. *Iac.* it is but a third part. If the Buyer ſhall find any default not made knowne by the ſearchers, or Overſeers ſeale, he may call the Seller, and in his, or ſome one of his appointments preſence, examine the ſame; and if the default be found, the Buyer ſhall have one halfe of the forfeiture, by 4 *Iac.* 2. Cap. 22.

10. Ten ſhillings every yard over the length. Ten ſhillings for every pound above two pound wanting weight. If of full weight and length, and fail in breadth, if it be through the whole cloth, twenty ſhillings: if half, ten ſhillings: under half, five ſhillings.

11. The forfeitures for want of length, breadth and weight, the Overſeers that finde and certifie the default, may recover in the Quarter Seſſions a third part of it: the other two parts ſhall be to the poor of the place where the cloth is made, to be levied by the Church-wardens and Over-ſeers, by diſtreſſe and ſale of goods, 21. *Iac.* 18.

12 The preſſing of any cloth but what is to be tranſported, 3 & 4 *Ed.* 6. 2. or preſsing of cloth with the hot preſſe, or otherwiſe than with the cold preſſe, 5 & 6 *Ed* 6. 5. loſſe of the cloth, or value: or hearing of thick boards or plankes, and laying them under and above the cloth in the cold Preſſe: or putting of thin or ſeeling boards, or Paſt-boards made hot in the cuttles or plates of clothes, and then preſently putting the ſame into a cold Preſſe: Or any other preſſing with any heat of fire, or the

Cap. 22. the like deceitfull meanes, 21. *Jac.* 18.

13 The uſing of tenters, and ſuch devices with a lower barre, pinne, ring, or other Engine, whereby any rough and unwrought Wollen cloth made to be ſold, ſhall be ſtretched in breadth; or the having, keeping, or uſing of any wrench, ring-head, growme, rope, or other Engine for the ſtretching of any ſuch cloth in length, made to be ſold, *ſub pœna* twenty pounds. 43. *Eliz.* 10. Or ſetting of any ſuch cloth, made to be ſold, upon any ſuch Engine to be ſtretched, or to ſtretch it more than thus: The whole wrought Wollen Broad-cloth, one yard in length, and one halfe quarter in breadth, and ſo the reſt according to 43. *Eliz.* 10. *ſub pœna* the loſſe of the cloth. So he that ſhall ſell the cloth ſo ſtretched, *The ſame*, See 21. *Jac.* 18. and being tranſported, it may be returned, by 43. *El.* 10. 7. The boyling of wools with Gawls, Rindes, Barks of trees, or Saw-duſt, *ſub pœna* the loſs of the Wool, 5 & 6. *Ed.* 6. 6.

14 The dying with Logwood, Woad, or other ſuch like ſtuffe, againſt 39. *El.* 11. See *Logwood.*

15 The ſelling by leſſe meaſure then a yard and an inch, ſix ſhillings eight pence every yard, 3 & 4. *Ed.* 6. 2.

16 For deceit in falſe colours put upon Cloth, or Wooll, and in uſing of Iron cards, or Pickards. See in the *Charge fol.* 17.

17 It being wet or ſhrunk more then a yard and a halfe in length, and a quarter in breadth, of a whole cloth, *& ſic pro rata* in other pieces, it is ſuſpicious, and not to be ſold by the Clothier *ſub pœna* twenty ſhillings. 3 & 4 *Ed.* 6. 2.

18 The

18 The Clothier must not sell his cloth till he have paid or agreed with the Aulneger for his fee, *sub pœna* twenty shillings, 5 & 6 Ed.6.6. and he must seal it, for it cannot be transported till then, *sub pœna* losse of the cloth, or the value, 5 & 6 Ed.6.5. Cap. 22.

19 The working of it by a Gigmil, five pounds, 5 & 6 Ed.6.22.

20 The Aulneger must seal it, and be paid his fee ere it be put to sale, 27.*H*.8.12. 5 & 6. Ed.6.6.

21 All customes and duties must be paid to the Keepers of the Liberties.

Sect. 6. How discovered and remedied.

1. Justices of Peace must make Overseers in every place. See 2 & 4 Ed.6. 39 *Eliz*.20. 43. *Eliz*.10. who may as oft as they think fit, enter into any houses to see how their cloth is made, and must every quarter, *sub pœna* ten pound. 3. Ed.6.2.7. *Jac*.16.21. *Jac*.18. of what weight and measure it is, &c. And by their seals affixed declare and certifie that which is good, and set down both their names on the seal, 21. *Jac*.18. and with the word *Faulty* upon that which is bad. And the Overseer is to put his two names in the seal he doth affix, 21 *Jac*.6. 3. He that doth interrupt them in the doing of their duty, forfeits twenty pounds, 3 & 4 *Ed*.6. 39. *Eliz*. 20. If the Over-seer refuse, he forfeits forty shillings, 3 & 4 Ed.6. upon information two Justices of Peace may punish the deceits used in the making of cloth, 21 *Jac*.18.

Over-seers.

4. Searchers must be appointed in Corporations, Cities, Burroughes, and Port-Towns, who may do likewise as Over-seers, for the clothes that shall be dressed, died, or pressed in such places

Searchers.

Cap. 22. places, 21 *Jac.* 18. And the Cloth woven there must be searched ere it be sold, 4 & 5. *Ph.* & *M.* 5. 21. *Jac.* 18. They must set their seals to distinguish good and bad cloth. If the searcher refuse without good cause, he loseth five pounds, 5. & 6. *Ed.* 6. 5. Yet that which hath been searched, viewed, weighed, and sealed already by the Overseers of Cloth, lawfully authorized, in any place, may not again be viewed, searched, or weighed, by another Officer or person. 4 *Iac.* 2. 21. *Iac.* 18. 43 *Eliz.* 10. *sub pœna* five pounds to the party grieved, 3. *Iac.* 17. But he that buyeth it may search it. 5. The Clothier to every cloth he makes, must set his Seal of Lead, declaring the just length thereof, to be tried by, and as it will be in the water. 3 & 4 *Ed.* 6. 2. 39. *Eliz.* 20 If the Merchant transport it before this be done, he loseth it, or the value of it, 5. & 6. Ed. 6. 6. and mark it with the letter E. and M. 4. & 5. *Ph.* & *M.* (3 Jac. 17.) crowned, wrought in the cloth, *sub pœna* twenty shillings. 3 & 4. Ed. 6. and with his own marke, 27. H. 8. 12. 5. H. 8. 2. The Searchers of great Townes must also set to their Seales of Lead, with the Armes and name of the Town to every Cloth. And if they finde it faulty, they must put another Seale of Lead with the letter F. into it, at both ends of the Cloth, and another marke on the List against the place where the fault is, *sub pœna* five pounds to the chief Officer of the place, 5 & 6 Ed. 6. 5. And he that shall take off, or counterfeit either of these Seals, the first offence ten pounds; the second, Pillory and losse of goods and chattels, 5. Ed. 6. 6. 6. None may sell cloth in grosse, or by retail, so dressed,

dreſſed, died, or preſſed in ſuch City, &c. except the ſeale of the city be fixed to both ends of the cloth, or that their ſeale remaine at the laſt end of the cloth that ſhall be ſold, 5 & 6. Ed. 6. 5. 7. The Merchant, Draper, and others, that buy cloth by retail, though it be duly ſealed, may not ſell it till they have wet and tried it: And if they find any fault in it, they are to preſent it to the next Juſtice of Peace, *ſub pœna* double the value of it, 5 & 6. Ed. 6. 6. And they are to have a third part of it, and yet ſhal have their mony again of him that ſold it, 5 *Ed.* 6. 6. And if any ſuch cloth after ſuch ſearching in the country, ſhall be found faulty in any thing not yet certified, and appearing by the Seals of the Over-ſeers and Searchers, to him that buyeth it, he may cauſe it to be tried, giving notice to the ſeller to bee there if hee will; and being found, the buyer ſhal have the moity of the forfeitures. Cap. 22.

8. And the Clothier that loſeth by deceitfull cloth by the Dyer, or Dreſſers &c. fault, may have his remedy againſt them, 5. & 6. *Ed.* 6. 5. If a cloth, by the default of Workmen, prove purſie, cockly, bawdy, ſwally, or rowy, by Warp or Woofe, or ſhall be evill burled or wafted in the Mill, or by the default of ſome work-men be full of holes, and it be offered to ſale, not having a ſeal of lead upon it with the word [*faulty*] upon it; the cloth or value thereof is forfeit. 4, & 5. *Ph.* & *M.* 5.

9. If the cloth after triall by the buyer before the ſeller, if he will be there, having notice, other wiſe in his abſence, prove leſſe in meaſure then the Owners ſeal ſpeaketh, he loſeth

Cap. 23. ſeth ſix ſhillings eight pence, for every yard it is leſſe, and muſt pay the value of the wanting cloth, by 4. *Fac.* 2.

For the Cloth in *York ſhire*, *See* 39. *Eliz.* 20 21. *Fac.* 18.

For *Mildernix* or *Powl David*. *See* 1. *Fac.* 24.

CHAP. XXIII.

Of the making and ordering of Officers.

Sect. 1. The power and duty of the Juſtices of Peace out of quarter Seſſions herein. Overſeers of Cloth. Recognizance.

TWo Juſtices of the Peace may and muſt once a year call before them, and appoint two or more Searchers or Overſeers of Woollen Cloth, within every place out of a Corporation, where Cloth is made or ſold, for a year or leſſe time, as they pleaſe, and bind them by Oath and Bond of forty pounds to do their duty: and he that refuſeth the Office, being appointed by the Juſtices of Peace, not rendring a reaſonable excuſe, loſeth forty ſhillings, whereof the one half to the Juſtices of Peace requiring him. See more in Cloth. 3. & 4. *Ed.* 6. 2. And hee is to be in the Sheriffes cuſtody till he pay it, or ſecure the payment of it.

Sect. 2. Over-ſeers of the poor.

Overſeers.

Two or more Juſtices of Peace, *Quorum unus*, dwelling in or near the place, muſt yearly within a month of *Eaſter*, by Warrant under their hands and ſeals appoint two or more ſubſtantiall Houſholders of every Pariſh to be Over-ſeers of the

the poor, and to joyn with the Church-wardens therein, *ſub pœna* five pounds; and he that refuſeth, or is otherwiſe faulty in doing his Office, forfeits twenty ſhillings; which theſe two Juſtices upon proof by confeſſion, or witneſſes, may levy by diſtreſſe and ſale of goods. And in default of diſtreſſe, they may commit them to Gaol without bail till they pay it. 43. *Eliz.* 2. *See more in Poor.* Cap. 23. Warrant. Commitment.

The making, removing, and ſwearing of high Conſtables, Petit Conſtables, and Tithing men, may be by the Juſtices of Peace. The High Conſtable is moſt properly to be made at the Quarter Seſſions, or by the more part of the Juſtices of that Diviſion. But hee and the Petit Conſtable may be made, ſworne, and removed by any one Juſtice of Peace, eſpecially if it bee in caſe of neceſſity that an able Officer is wanting, the old being dead, or removed, or an inſufficient one choſen, and there being a great time to the Leet and Seſſions, wherein this defect may be ſupplied. Yet ſome ſay, If he bee choſen in a Leet, there muſt be two Juſtices of Peace to remove him. But it was reſolved by all the Judges, *tempore Caroli*, That if the Leet chooſe an unfit man, any Juſtice of Peace may remove him, and put in one that is fit. And the Lord alſo may loſe his Leet by this defect. The Juſtice then that doth ſo, muſt be ſure he hath good cauſe ſo to do, and then he may do it, *Dalt. J. P. f.* 16. But the moſt proper remedy to remove an Officer unduly elected, is by complaint at the Aſſizes or Quarter Seſſions. And if any ſuch Officer required by a Juſtice of Peace to ſerve, refuſe to take his oath, the Juſtice of Peace *Sect.* 3. Conſtables. Seſſions, Leet. Bind over.

Cap. 23. Indictment. Peace may bind him over to the Aſsizes or Seſſions, or may indict, fine, and impriſon him.

One Juſtice of Peace may require Conſtables to preſent ſuch as lodge ſtrangers in any up land Towne, for whom they will not anſwer *Winch.* 13. *Ed.* 1.

There muſt be two Juſtices of Peace, *Quorum unus*, to puniſh a Conſtable for his neglect in his Office in the puniſhment of Rogues, and to levie the ten ſhillings forfeiture on 1. *Jac.* 7. 39. *Eli.* 4. So to fine him under forty ſhillings, if he do not appear and do his duty at the pety Seſſions about Rogues. 7. *Ia* 4. So likewiſe to call to account Bailiffs and head conſtables on the complaint of Church-wardens, for the money received by them on Eſtreats, for the fines of offenders about high-wayes, and by impriſonment till payment, to compell them to pay it in to the church-wardens. 3. *M.* 8. 5. *Eliz.* 13.

Sect. 3. Over-ſeers of Weights and Meaſures. Fine.

Any two Juſtices of Peace, *Quorum unus*, may according to their diſcretion puniſh by Fine the defaults of Officers, that do not twice a year view Weights and Meaſures, and deſtroy the defective ones. 11. *H.* 4. 4. *Dalt. I. P. Chap.* 65.

Sect. 4. Over-ſeers of Rivers.

Any one Juſtice of Peace may put in Over-ſeers of Rivers, and ſurvey them. 27. *R.* 2. 9.

Sect. 5. Treaſurers of the County ſtock. Governour of Bride-well. Collector for the Common Gaol.

The Treaſurers of the county ſtock, Governour of Bride-well, and collectors for the Priſoners in the common Gaol muſt be choſen at the Quarter Seſſions, and cannot be choſen elſewhere. But any two Juſtices of Peace may give Warrant to levie by ſale of Goods the Fine impoſed by the Juſtices of Peace at Seſſions on the Treaſurers of the county ſtock for their neglect or refuſall.

Warrant.

Any

Any one Justice of Peace may punish the Defaults of Sheriffs in not returning sufficient Jurors that have forty shillings a year Land, about a forcible Entry. And this it seems he may do by Indictment at any Sessions. 8.*H.*6.9.*Dalt.J.P.f.*73.93. Cap. 23. *Sect.* 6. Sheriffs Return of a Jury.

So also he may upon complaint against a Sheriff, of Abuses in his County Court, *viz.* that he entreth a plaint in the name of a man who is not present himselfe, nor by his Attourney. 2. That pledges sufficient are not put in by the Plaintiff. 3. That the Plaintiff doth enter more then one Plaint for one Cause. 4. That more Plaints are entred then the Plaintiff desired. 5. Or that his Bailiff do not warn Defendants, he may examine the Sheriff, or any of his Officers, and if he find it by their confession, or otherwise, he must certifie it within a quarter of a year into the Exchequer. 11 *H.*7.15. And any one Justice may examine the Collectors of the Sheriffs Amercements, if they have collected more then is within their Estreats, and if they find it, certifie it to the Exchequer. Abuses in the County Court.

But there must be two, *Quorum unus*, to overlook the Sheriffs Books and Amercements, and to seal the Indentures of his Estreats, being appointed thereunto by the *Custos Rotulorum*, or eldest of the *Quorum*. 27.*Eliz.*12. And they are to swear the Bailiffs, Collectors, &c. that they shall take no money more then is contained by their Estreats sealed by the Justices. 27. *El.* 12. 11. *H.*7.15. *Dalt.J.P. Chap.*51.

If a Sheriffe, or other Officer that hath the breaking of Writs, send his Warrant to summon or arrest a man to appear in the Sessions, without

Cap. 24. having an Originall to warrant it, It ſeems the Juſtices may ſend for him, and the Procurers hereof, and examine the matter, and if proved by Witneſſes, or confeſſed, they may ſend them to Gaol without Bail, till they pay the Party grieved ten pounds, and his coſts, &c. 43. *Eliz.* 7.

Commitment.

Sect. 7. Searchers of Tiles. Two Juſtices may appoint ſuch as they think to be fit to be Searchers and Examiners of the Defaults in Tile-making. 17. *Ed.* 4. 4. *Dalt. I. P. fol.* 174. And theſe may preſent Defaults upon their own view. *Sed quære of this.*

CHAP. XXIV.

Of Arreſt, and Impriſonment, Bail, and Priſons.

Sect. 1. What an Arreſt or Impriſonment is.

FOr the better underſtanding of ſo much of the Law in this point as concerneth Juſtices of Peace, theſe things are to be known. 1. An Arreſt is the firſt Act of Impriſonment, when one is firſt reſtrained of Liberty; and Impriſonment is the continuance thereof, when a man (where-ever hee be) is ſo reſtrained that he cannot go whither and when he will, as at other times. And to lay hands on a man, and hold him, keep him in a houſe, lock him in a room, tie him to a Poſt or Tree, put him in Priſon or Stocks, or the like; or if a known Officer do but ſay, *I arreſt you in the Kings Name*; all theſe are Impriſonments. But to require another to ſtand or ſtay, or ſay, He will arreſt, or doth intend to arreſt him; but doth not lay hands upon him; or to require him

to

to appear before a Magiſtrate, or the like; theſe are no arreſts nor Impriſonments. *Cook.* 9. 66, 69. Cap. 24

For the Anſwer of all theſe Queſtions, obſerve theſe things. *Sect.* 2. Who may do it. And to whom it may be done, and for what cauſes, and how, and when, and where.

1. Any man that hath authority by Law ſo to do, may arreſt and impriſon another. As a Juſtice of Peace, Sheriff, Conſtable; and in ſome caſes, every man; as in the apprehending of Felons, keeping the Peace, &c.

2. Any man or woman, (except Barons, and Peers) may be arreſted and impriſoned.

3. One may arreſt or impriſon another in moſt caſes at any time, either in the day, or in the night, and upon any day of the week. But if a Miniſter be arreſted on the Lords day, he that doth arreſt him muſt take heed he do it not either at Church, or in his going to, or coming from it, for that may be puniſhed. *Cook.* 9. 66. 1 *R.* 2. 15. So alſo the arreſt of any other man now, unleſſe it be in ſome ſpeciall caſes, is unlawfull on the Lords day. See *Chap.* 4. *Miniſter.*

4. It may be done in any place that is not priviledged from Arreſts, (as ſome places are) as in the houſe, field, and it may be done in a Church, but then care muſt be had that no diſturbance be made to the Congregation.

5. Theſe Perſons, and for theſe Offences, and for the time, and in the places hereafter named, are to be impriſoned, and that without Bail, otherwiſe then is ſet down, *viz.* *Bail.*

1. Ale-houſe-keepers without Licenſe, and prohibited by two Juſtices of Peace, that notwithſtanding do ſell, may be committed to a- *Alehouſe keepers.*

Cap. 24.

Commitment. Recognizance. House of Correction.

ny priſon for three days, and untill they enter into recognizance with two ſureties, not to do ſo again. And for the ſecond offence, to the houſe of correction for one month; and for every offence after, till they be diſcharged by Quarter Seſſions.

Commitment.

Such Ale houſe-keepers as offend by ſuffering tipling, or in the Aſſize, and have not ſufficient diſtreſſe, may be impriſoned till payment.

Ride armed.

2. Such perſons as go or ride armed, may be impriſoned till they pay their fine for it.

Over-ſeers of cloth.

3. He that being appointed an Over-ſeer of cloth, refuſeth, is to be impriſoned till he pay five pounds.

Deceiveable cloth.

4. Such as make deceiveable cloth, and have no diſtreſſe to anſwer the forfeiture, are to be impriſoned till payment.

Baſtard.

5. The mother or reputed father of a *Baſtard*, are to be impriſoned till they performe the Juſtices order, or give bond to do it. And ſhe is to be kept in the houſe of correction one year: And for the ſecond offence till ſhe give bond and ſurety of the good behaviour, and not to offend again.

Supraviſors of the high-ways &c.

6. Surveyers and collecters for bridges, and for Gaols, and ſuch as receive the mony forfeit for offences about High-ways, that refuſe to account, are to be impriſoned till they do it.

Account. Officers for neglects.

7. Conſtables and Church-wardens that levy not the forfeitures upon Ale-houſe-keepers that offend, and have no diſtreſſe, are to be impriſoned till they pay forty ſhillings. The Conſtable that doth not levy the twenty ſhillings for keeping an unlicenſed Alehouſe, is to

be

be impriſoned till he doe it, or pay forty ſhillings. For not whipping a Treſpaſſer in Orchards, Woods, &c. according to his Warrant, hee is to bee impriſoned till hee cauſe it to bee done. Cap. 24

8 Dyers that uſe Logwood, are to be impriſoned till they pay the forfeiture. Logwood.

9 Such as, being required by lawful authority, to put in ſurety for the Peace, good behaviour, or to appear at Seſsions, &c. and refuſe, are to be impriſoned till they do it. And in moſt caſes they may not be delivered by the death of the party at whoſe ſuit it was done, without the help of the Seſsions or Gaol delivery; where a Juſtice hath power by any Statute to bind over any man, or cauſe him to doe any thing which he refuſeth, being required by him: in this caſe it ſeems he may ſend him to Gaol till he do it. *Dalt. J. P. 296.* Such as refuſe to be bound. Commitment.

10 Deſtroyers of Ponds, &c. are to be impriſond three months, and after till they finde ſureties for their good behaviour for ſeven yeers. Deſtroyers of Fiſh, Fowl, &c.

Deſtroyers of, and ſuch as ſhoot at Feaſants, &c. are to bee impriſoned three months, unleſſe they pay twenty ſhillings a Fowle. So for Hares.

Thoſe that doe hunt with Grey-hounds, or Ferrets, are to be impriſoned a year. Hunting.

11 Such as deſtroy the game in Parks, are to be impriſoned three years.

12 Such as hawk between the firſt of July and the 31 of Auguſt, are to be impriſoned a month, unleſſe they pay forty ſhillings a time, and twenty ſhillings a Partridge. Hawking.

Cap. 24

Eaters of flesh.

13 Eaters of flesh in Lent, if they pay not twenty shillings, are to be imprisoned a moneth.

Shooters in Guns.

14 Such as shoot in guns, are to be imprisoned till they pay ten pounds.

Riots.

15 Offenders in Riots, Routs, unlawful Assemblies, forcible entries and detainer, are to be imprisoned till they pay their fine, or find sureties to do it.

Fine.

16 For a fine put upon a man in any Court of Record generally, a man shall be imprisoned till hee pay it or secure it. *Broo. Impr. 92.*

Breach of the peace.

17 A man may be imprisoned for breach of the Peace: For if there be any breach of the peace, or apparant likelihood thereof by any persons, or they assault the Officer himself, he may set them by the heels, or put them in ward for a time; but after it is past, he can do nothing to them. 12 *H.* 7.

18 So if two be fighting, any one may take one of them, and lock him up for a time till the heat be past: but if they bee quarrelling only, hee cannot do it, 5 *H.* 7. 4. unlesse he be an Officer.

Madmen.

19 A man that is mad and furious, may bee imprisoned to prevent mischief.

Forestallers.

20 Forestallers, Regrators, and Ingrossers are to be imprisoned two months.

Conveyers of Bowes.

21 Aliens that convey away Bowes, may be ipmrisoned till they be fined in Sessions, and give bond to pay it. 35 *H.* 8. 9.

Forgers of Deeds.

22 Forgers of Deeds, if they concern Freehold, &c. are to be imprisoned for their lives, otherwise but for a year.

23 *Such*

23 Such as keep places of, or play at unlawfull games, are to be imprisoned till they give surety no more to offend. Cap. 24. Unlawfull games.

24 Hostlers that take excessively for horse-meat, or make horse-bread against 21 *Jac.* 21. or make it not of the due assise, for the second offence are to be imprisoned one month. Hostlers.

25 Labourers and Artificers that goe from their work ere it be finished, are to be imprisoned a month. Labourers.

26 Such as without allowance of a Justice of Peace, depart before the terme end, or at their term end, without a quarters warning before two witnesses. Departure out of service.

27 Such as are compellable to serve, and refuse to serve on request, or have promised to serve and do not serve accordingly: all these are to be imprisoned till they be bound to the party to serve according to the Statute: And such as refuse to be bound apprentices, are to be committed till they do conform. Refusers to serve.

28 The Over-seers of the poor that refuse to account or pay the money in their hands, or that pay not the twenty shillings for any default, may be imprisoned till they do it. Poor over-seers.

29 The Grandfather, Father, &c. refusing to obey the Justices order, may in case of lack of distresse, be imprisoned till he pay the twenty shillings a month forfeiture. Order of Justices.

30 Such as refuse to pay their rates for the Kings Bench and Marshalsey, or for the County stock, are to be imprisoned till they do it. Rates.

31 Such as refuse to pay their rates for the places that have the plague, if they have no distress, are to be imprisoned till they pay it. So for the rates of the poor.

Cap. 24.

Refuſers to come to Church.

32 Such as come not to Church every Lords day, and have no diſtreſſe to pay their forfeiture, are to be impriſoned till payment. So for the forfeiture for the months abſence, 23. *Eliz.* 1.

Rogues.

33 Incorrigible Rogues are to be impriſoned in Gaol or in Bridewell, till the next Quarter Seſſions.

Diſturbing the preacher

34 Such as diſturb Preachers, binder the arreſt of ſuch perſons, or reſcue them from arreſt, are to be impriſoned three months, and till the next Seſſions.

Perjured perſons.

35 Perjured perſons are to be impriſoned ſix months. And the promoters thereof not having to pay the penalty, one year.

Propheſiers.

36 Falſe Propheſiers are for the firſt offence to be impriſoned one year, and for the ſecond, for life.

Malters.

37 Such as diſobey the Juſtices order for reſtraint of Malting, may be impriſoned three days, and after till he give bonds of 40 pounds to do it.

38 And none of theſe are bailable before the time, or otherwiſe than is before ſet down.

Diſobedience to Seſſions orders.

39 Such as diſobey an order of Seſſions, may be impriſoned for it; and it ſeems, may not be bailed by any Juſtice of the Seſſions, *Sed quære.* For ſuch as are arreſted on the Seſſions proceſs, are bailable by two Juſtices, *Quorum unus.*

Treſpaſſers in Parkes may be arreſted there. So he that hath a Gun may be arreſted.

Suſpicion of Felony.

40 For any Treaſon or Felony that a man hath done, or upon ſome cauſe a man is ſuſpected to have done, he may be arreſted and impriſoned, and that by any man that hath cauſe

to

to ſuſpect him. For any man may arreſt another that is either indicted of Felony, out-lawed for Felony, &c. or that he knoweth or ſeeth to have committed a Felony; or after a Felony is done, if he have cauſe to ſuſpect him. And ſo may any man arreſt him that is apparantly going about to commit a Felony, or him that hath dangerouſly hurt another in an affray, or night-walkers that are ſuſpicious. But except it be in ſuch like caſe, and for prevention in ſome caſes, as where two are about to be incontinent, to break the peace, or the like, a man is not to be arreſted but upon Proceſs or Warrant from ſome Court of Record, and by authority from Juſtices of Record, and after conviction by a Jury, or otherwiſe. But regularly none may commit another to priſon, but he that is a Judg of Record. 9 *Ed.*4.26. 20. *Ed.*4.4.6. 11. *Ed.*4.4. 3. *H.*7. 1. *Lamb. f. P.* 188, 189.

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Night-walkers.

Incontinency.

41 Men may be impriſoned for many other cauſes; but the Conuſance thereof doth not at all belong to the Juſtices of Peace.

42 A Murtherer quit before the year and day, is to be ſent to Priſon, or to go upon Bail, till the year and day be paſt. *See* 3 *H.*7. 1.

Murtherer. Bail.

Sect. 3. Bail. Who is bailable, and how.

Theſe perſons, and for theſe offences following, are not to be bailed at all. Such as are in Priſon for Treaſon, or the death of a man. But ſome think a man is bailable, in caſe of manſlaughter, and then much more in caſes of leſſe offence, as *Se defendendo, &c.* Such as are in Priſon on executions, *Cap. ut legat. Excomunicationis*, On Proceſſe of rebellion out of Chancery, Or any Proceſſe on an Action perſonal. Treſpaſſes in the Forreſt, Vagabonds, or by ſome

Cap. 24. ſome ſpeciall commandment from ſome ſpeciall Juſtices forſpecial cauſe, felonious burners of houſes. 3. *Ed.* 1. 15. 23. *H.* 6. 11. 5. *E.* 3. 8. 2. *H.* 5. 2. He that hath abjured the Realm, he that breaketh Priſon, he that is an Approver or Apellor, one appealed by an Approver: but if he be no common Thief, nor defamed, he may be bailed after the death of the Approver. They that conſpire to indict another for Felony, they that are convict of *Redisſeiſin*, Conjurers, the Felon that confeſſeth the Felony, is taken in the manner, or known to have done the Felony, or is a known and defamed Felon, or is attainted for the felony, eſpecially if it be the killing of a man, and the *Mittimus* expreſſe the Commitment to be for felony confeſſed. *Cook* 4. *Part Inſt.* 178. He that is acceſſary to a felony after the Principal is attainted, except he plead not guilty, or other Plea. But before he is attainted, *contra*, eſpecially if he be of good fame. He that is convict of felony, prayeth Clergy, and is reprieved. For when a man is bailed, he ſhould be bailed before it appear whether he bee guilty or not. Nor in caſe of *Maim*, when it is great.

But theſe perſons offending in theſe caſes, may be bailed, (viz.) ſuch a one as doth commit *petit larceny* after he is indicted, if this be the firſt offence. So alſo a man may be bailed if the ſtealing be above twelve pence. So the principall in Robbery or *B*urglary. So he that is taken upon a light ſuſpicion, charged with receit of theeves, or other Felons, or being acceſſary to felony, or with a treſpaſs that toucheth not life or member [if it be not prohibited by ſome later Statute.] So he that being indicted of Man-ſlaughter, is acquitted; he

that

that is indicted of Murder or Manſlaughter at the Kings ſuit, and quit, is bailable during the year. Such as are impriſoned by proceſſe out of Seſſions, upon penall Lawes not forbidding baile. But if he be on an indictment of treſpaſſe, he may be bailed by one Juſtice of Peace. So ſuch as are charged with Homicides, which are not Felony. All theſe may be bailed. Cap. 24.

Sect. 4. The power and duty of the Juſtices of Peace herein out of Seſſions.

1. In moſt of the caſes before, the Juſtices of Peace have the power of impriſonment, and by their Authority it may be done. And their Warrant is ſufficient to enable them that do it.

About impriſonment.

2. In all caſes where an inferiour Officer of the Peace may *ex officio*, or another man that is no Officer, may impriſon a man for any matter of the peace, a Juſtice of peace may much more impriſon him.

Peace.

3. If the Sureties doubt of the eſcape of the priſoner bailed, a Juſtice of Peace upon prayer may diſcharge the Sureties, and commit the party to priſon; or he may cauſe the party bailed to find better Sureties.

Cõmitment.

4. It is thought in all caſes, that where the Juſtice of peace hath power to bind over a man, or to cauſe him to do ſomthing, and he be in preſence and refuſe it, that he may impriſon him till hee do it.

Commitment. Refuſers to be bound over.

Sect. 5. About the bail or delivery of priſoners.

5 Where the Juſtice of peace doth impriſon by the power of any Statute, he muſt take heed he do purſue his authority by the Statute.

Diſcharge.

6. The Juſtices of the Peace may in no caſe deliver and diſcharge any that are accuſed of Felony before them, though the caſe appear never ſo clear; but they are to binde over

Cap. 24. over the Witneſſes to proſecute and give evidence, and commit the party ſuſpected to priſon, or take baile of them to appeare at the Seſſions or Aſſiſes. And they muſt take heed how they bail Felons; For ſome have held that they are not bailable but at the Aſſiſes: And to baile one not bailable, is a negligent eſcape.

Eſcape.

7. But it is not doubted, but that they may baile theſe offenders in theſe caſes following, (viz.) One Juſtice may bail him that is arreſted by a Seſſions Proceſſe upon an indictment of an ordinary treſpaſſe. And he may grant a *Superſedeas.* So if any man be impriſoned for a leſſer offence than felony, or for the ſuſpicion of ſuch offence, one Juſtice of Peace may bail him, except it be forbidden by any ſpecial Law, 3. *H.* 7. 3. *Dal. J. P. in c.* 12. As he that blaſphemeth the Sacrament of the Lords Supper, cannot be bailed to the next ſeſsions, by leſs than three Juſtices of Peace, 1 *Ed.* 6. 1.

8. But there muſt be two Juſtices, *Quorum unus*, to baile a man that is charged with Felony: And they two muſt be together at the time of the bailment, and before they bail him, take his examination in writing, and this with the bail and recognizances for witneſſes, they muſt certifie to the next Gaol-delivery, 1 *R.* 3. 3. 3 *H.* 7. 3. 1 & 2 *M.* 13.

Examination.

Certification.

And though the offence appear to be *Se defendendo*, or the like; yet it is not ſafe for one alone to do it.

9. The Juſtice of Peace is not to bail, but in caſes which he may hear and determine. 1 & 2. *P. & M. c.* 13.

10 When

10. When he doth bail, eſpecially if it be for Felony, he is to ſee he have good bail: It is requiſite they be two Subſidy men. Cap. 24.

He that is under arreſt for Felony, is a priſoner as well without the priſon, as in the Stocks, in the high-way, or in the poſſeſſion of him that arreſted him, or hath the keeping of him. *Sect. 6.* Priſoner, and priſon.

Howbeit the Sheriffe or Gaoler may impriſon in their own Houſes, or common Gaol, at their pleaſure; yet the proper priſon for the Juſtice of Peace is the common Gaol. But he may for the ſafe keeping of a priſoner a little while till they may have help to carry him to Gaol, commit him to the Stocks. &c. But the Juſtices of peace may not make their own or others houſes a conſtant priſon. Yet in ſome caſes where the Law doth appoint for ſome ſpeciall offence, a ſpeciall priſon, as the Houſe of Correction, there they muſt be ſent to that priſon. And in ſome caſes the Juſtice may commit to ſafe cuſtody according to his diſcretion. And if the Gaoler refuſe the priſoner, he may be kept any where till they can be delivered of him. *Dalt. I. P. ch.* 118. 5. *H.* 4.10. *Cook.* 9.119. Gaoler refuſe the priſoner.

If one offend in one County, and flie into another, and he be taken there, he muſt be impriſoned where he is taken. But if he get into that County by eſcape from the Officer, he may in a freſh purſuit take him and bring him back to his own county.

If the priſoner committed by a Juſtice of Peace for any offence, be of any ability, he is to bear his own and their charge that wait upon him. And if he refuſe, any one Juſtice of peace may give Warrant to the Conſtable to diſtraine *Sect. 7.* Charge of a priſoner ſent to Gaol.

his

Cap. 24.

his goods, and after appreiſment by four of the pariſh, to ſell them, rendring the overplus, 3. *Fac.* 10. 13.

In this Gaol hee is to be kept cloſe and ſure; and for this, if need be, he may have Irons put upon him. And if the Gaoler do not keep him ſo, he may be puniſhed.

Sect. 8. When and how he ſhal be impriſoned.

Where a Statute doth appoint a ſet time of the taking and keeping of the offender, there that time ſhall be obſerved; but where no time is ſet, it ſhall be preſently, and cannot be afterwards, as in the caſe of Force. When it appointeth an impriſonment, and ſaith not how long, it ſhall be during the pleaſure of the Court. If it be during the pleaſure of the Judge, it ſeems the priſoner cannot be delivered till he declare his pleaſure. But if impriſonment be by Juſtices of Peace, in all caſes (except for the Peace, Good behaviour, Felony, or higher offences) it is but till the offender hath made his fine, which when he hath paid, or given ſecurity for, he is to be diſcharged.

CHAP. XXV.

Of Rates and Aſſeſſments.

TOuching this point, theſe things muſt bee known. 1. In making of Rates, it is fit before hand to give publick notice. This in Church rates was neceſſary before the laſt

last Odinance was made; then if the Parishioners wil come, they may; if not, the Officers may make them themselves. 2. The Rates, if they be Parish rates, must not go further then the Parish. 3. For the most part, and in most cases, all sorts of men, and all kind of Estates, and all kind of Land are to be rated. 4. For the Rates of the Poor, (by the Rules whereof most other rates are made) 1. Every Inhabitant, Parson, Vicar, and other, and every occupier of houses, lands, Tithes impropriate, Propriations of Tithes, Cole-mines, and saleable under-woods are to be rated. In which these things are to be heeded. 1. A man may be rated to the poor though he have no land in the Parish. 2. By saleable under-woods are not meant Timber, but any Wood for fire, albeit it be not cut in thirty or forty years, (as the Beech wood of many Countries) 3 Woods are to be proportioned to a yearly benefit, so that if a man have a hundred acres in a Parish, it must be cast what it will make him to continue, and according to that he must be rated. So Mines are to be considered, what profit clearly they do bring in yearly. 4. It is thought fit in rating Impropriations where the Parson hath the Tenth of the Parish, that he bear the Tenth of the Rate. 5. Ancient Demesne Land, Guildable, and Copie-hold land, are all to be charged. 6. Mens Lands are first to be rated. And then some respect is to be had, (but with much caution) to mens other visible ability of stock, of cattell, corn or grain upon their Land, or of Goods, as houshold-stuffe, cloth, or other Merchandizes, Malt, or the like in his house. For that a man that hath a house bravely furnished,

Cap. 25.

Poor.

Cap. 25. ed, and a hundred pounds to it, fully ſtocked, and hath a thouſand pounds in Cloth, Malt, or the like, in his hands, to pay no more than him that hath a houſe with bare walls, and a hundred pounds, with ſcarce any ſtock upon it, ſeems moſt unreaſonable. But for mens inviſible Eſtates of money, &c. in reſpect of the incertainty of it, it ſeems no Rate may be ſet upon it, for ſo was it *Reſolved by the Judges, 5 Car.* Yet if a man be known to have an Annnity of one hundred pounds a year, or one thouſand pounds lying in ſuch a mans hands, for which he receives Intereſt, and it may be in all his Eſtate, let it be well conſidered why in ſo clear a Caſe he ſhould not be rated proportionably. And when a man is rated for ſtock or Goods, it ſeemeth reaſonable to ſet it after the proportion of Lands, *viz.* that one hundred pounds in ſtock be rated after five or ſix pounds a year. 4. Every mans Land muſt be rated to all Rates according to the quality and yearly value, or by the pound, and not according to the quantity and content, as the Yard, half Yard, or the like. 5. He that doth occupy lands in his own hands lying in ſeverall Pariſhes, muſt be charged in every Pariſh for his Land there, onely proportionally and no more. But for all a mans perſonall Eſtate, it ſeems reaſonable hee ſhould be charged where his perſon is. 6. The Farmer is to be charged for his Land he hath in Leaſe, not the Leaſer. The Lord or Leaſer is not to be charged for his Rent he receiveth for his Land, becauſe the Tenant is chargeable for the whole Land. 7. In the making of the Rate, reſpect is to be had not only to a mans ability, but alſo to the advantage he hath by the thing for

for which the Rate is made. 8. In some Cases a man may be rated beyond his ability, as where one brings a charge upon a Parish, or the like. 9. In all cases of Taxes for the convey of Rogues, county-stock, common Gaol, house of correction, and other things where the Law doth give no direction, it is best to follow the Rate for the Poor, and the custom of the place. And so have the Judges given direction. Cap. 25.

For the doing of Works for the commonwealth, as amending of Churches, High-wayes, Bridges, Sea-banks, or the like, the *major* part of a Parish agreeing by a by-Law, may binde the rest disagreeing. 10. Any Rate by an universal Agreement of Parishioners will bind them, and so they may appoint one to collect it, and distrain for it. *Dal. J. P. cap.* 52, 53. *Cook* 5. 57. 67. 10. 139. 9. 104. 11. Where a Statute appoints a Rate to be set upon every Inhabitant, it must be so set upon every person, that every one may bear his own burden, and not upon the parish, &c. so that one may be distrained for the rest. *Cook* 2. *Part of his Inst.* 704. Churches, &c.

Sect. 2. The power and duty of Justices of Peace hereinout of Sessions.

If the Parishioners of any parish, Constables, and Church-wardens cannot agree in the Distribution of the Rates of the Justices of peace, made at Quarter Sessions for the Kings Bench, Marshalsey, Hospitals, losses by Fire, &c. then any one Justice of peace living in or neer the parish, may set the rate. And if in this case they neglect to levy it, any one Justice of peace may require it to be levied by distress and sale of goods. And in default of distress, he may send the party to prison till he pay it, 43. *Eliz.* 2. Warrant. Comitment.

2. The like, save onely commitment) may

Cap. 25. one Justice of Peace doe, in case of default by the Parishioners, Church-wardens, &c. for the rate set by the Justices of Peace in Quarter Sessions for the relief of maimed Souldiers and Mariners, on 43. *Eliz.* 3.

3 There must be two Justices of Peace (and any two may do it) to make a rate upon the place, and by Warrant under their hands and seales, to cause it to bee levied by distresse and sale of goods, or by imprisonment in case of lack of distresse, to relieve them that are sick of, or shut up for the plague. And for this purpose, upon a certificate of two head Officers of the place (if any be there) to two Justices of Peace neer the place, otherwise without a certificate to rate all places within five miles, and to cause it to be levied as before, to bee disposed by the same Officers; or where none such are, by the Justices of Peace. And to fine in ten shillings the Officer that is negligent, 1 *Jac.* 31. 21 *Jac.* 28.

Plague.

Poor. 4 There must be two, *Quorum unus*, to rate other Parishes in the Hundred for relieфe of the places that are not able to maintain their poor. 43. *Eliz.* 2. So also there must bee to tax the Hundred for relieфe of poore Souldiers and Mariners that come from Sea, to set them on work, and to maintain them if they cannot have work where they dwell. And this they may do according to their discretion, 39. *Eliz.* 17.

Robbery. 5 So likewise there must be two such Justices in or neer the Hundred charged (where the Robbery was done, and where neglect of pursuit is (for those two Hundreds must bear it) to rat

rate the Hundreds for the raising of money lost by a Robbery, when it is levied of one or more of the Hundreds, which they are to do according to their discretion. And this is to be proportioned by the Constables of every place, and levied by them, *ex officio*, by distresse and sale of goods. 27 *Eliz.* 13. and the money delivered to a Justice of Peace, who must pay it to him that hath right to it. Cap. 25.

6 The Justices of Peace may in their discretion set down at what rate Beer-brewers and Ale-brewers shall sell their Barrels, Kilderkins, and Firkins of Beer and Ale. And this *rigore juris*, it seems may be done out of Sessions. But it is best to do it there. 23 H. 8. 4. Brewers.

7 There must be four, *Quorum unus*, to make rates for Bridges, *Cook 2 part of his Inst. fol.* 703 22. H. 8. 5. and for *Chepstow* Bridge, by 3. *Jac.* 23. Bridges.

8 Any one Justice of Peace may allow of and confirm under his hand, a rate that is made by the Constables and Churchwardens, and two or three of a Parish where he is taken, for the conveying to Gaole of a prisoner that is sent to Gaol by a Justice of Peace for any offence, and cannot bear his owne charge. And by Warrant to the Constable or other Officer, cause the same to be levied by distresse and (after appreisment by four of the parish) by sale of his goods, rendring to him the over-plus, 2. *Jac.* 10. Charges to carry a prisoner to Gaol.

As touching which, these things must bee knowne: 1. That in case the prisoner hath no goods or chattels, or none to be found in the County, there must be a rate made. 2. This rate

Cap. 26. is to be made indifferently by the Constables and Church-wardens, and two of the inhabitants of the place where he is taken; or in default of the Constables and Church-wardens, by four of the principall inhabitants of that place. 3. It seems to be compulsory, for the words are, *A Rate shall be made*; and therefore if they do it not, it seems the Justices may by warrant require them. 3. *Jac.* 10.

What they may do about rates for the poor, see *Poor*. What they are to do for rates for maimed Souldiers: See *Chap.* 33.

Chap. XXVI.

Of Weights and Measures.

Sect. 1. IN this, these things must be known: First, There must be but one weight and one measure, of Corn, Wine, Beer and Ale, and one yard through the Realm, and this must be according to the Standard in the Exchequer.

2 The *Troy* weight (which hath to the pound twelve ounces, or twenty shillings sterling) and *Averdepois*, which hath sixteen ounces, or 25. shillings sterling to the pound, are both allowed, *viz.* the Troy weight to weigh Gold, Silver, Pearl, precious stones, Silk, Electuaries, Bread, Wheat, and all manner of Corne and Graine. The Averdepois to weigh all kind of Grocery wares, physicall Drugs, Butter, Cheese, Flesh, Wax,

Wax, Pitch, Tarr, Tallow, Wools, Hemp, Flax, Iron, Steel, Lead, and all other Commodities, not before named, especially every thing that beareth the name of *Gazbell*, and whereof issueth a refuse or waste. *See more in Dalt. J. P. c. 65.* And to every hundred Averdepois weight is allowed twelve; so the hundred weight is a hundred and twelve, the halfe hundred 56, Quart. 28. Cap. 26

3. Bushels and other Measures of Corn differ according to places, and so do yards or poles, and the custome of the place is regularly to be observed, so that if one buy a number of Bushels, or poles, it shall be according to the measure of the place. The measure of the Corn shall be striked without heap, but the water measure within ship-board is five pecks striked. 4. Wine is sixteen Gallons and a halfe to the Rundlet, and thirty and two and a halfe to the Barrell, sixty three to the Hogshead, a hundred twenty six to the Pipe, two hundred fifty two to the Tun. Beer nine Gallons to the Ferkin, eighteen to the Kilderkin, thirty six to the Barrell: Ale and Beer, eight to the Firkin, sixteen to the Kilderkin, thirty two to the Barrell, sixty three to the Hogshead or Quarter. 5. And Coopers must make their vessels of this measure, or set a mark upon them where they be otherwise. And the Brewer must sell by these measures, and not otherwise. But Ale and Beer must be sold by one measure, Wine by another. *Dalton. Just. P. 184*

6. Four Inches are a handfull, twelve a foot, three foot a yard, three foot and nine inches an ell, five yards and a halfe being eighteen foot and a half, make a pole, rod or pearch; and yet it is

Cap. 26 more in some places, twenty one, in some twenty four Foot. As for the Assize of bread, and Bakers, these Rules must be kept. 1. It must be weighed by Troy weight. 2. It must not bee weighed after seven days. 3. He must sell thirteen pence for twelve pence to Victuallers that retail. 4. He must have a mark for his bread. 5. Every sort of bread shall be weighed according to the price of the middle sort of Corne. 6. There are three sorts of bread to be sold, white, wheaten, and houshold, besides horsebread. 7. The Bakers of Burroughs, Cities, and Corporate Towns, shall have six shillings for the baking of a Quarter of Wheat, over and above the second price of Wheat in the Market, others in other places shall have 4. shillings. 8. Strangers bread must weigh six ounces in the peny Loafe more than town dwellers. 9. Three horseloaves must be sold for a peny, thirteen to the dozen, and every Loaf must weigh a peny white Loaf, 10. Bakers and Brewers, if they offend, may bee amerced; if grievously or frequently, the Baker may be judged to the Pillory, the Brewer to the Tumbrell, *i.* Cucking-stool, but this must be in the Sessions. *Dal. J. P.* 181.

Millard. For Millards, these Rules are to be kept. 1. The Millards Toll-dish must be according to the Standard. 2. He is to have the twentieth or twenty fourth part, and in same places more. But he ought to have but one Quart for grinding one Bushell of hard Corn, *viz.* Wheat, Rie, and Maslin; and if he fetch it, and carry it, two Quarts; and for Malt he is to have but half so much as for hard corn. 3. Millards ought not to be common buyers of corn, to sell again either in corn or meal.

In

In the principall Shire town of every County there ought to be in the custody of the chief officers therof *Standards* of brass for weights and measures, according to the great Standard, by which all other measures of the county ought to be regulated. Cap. 26.

2. In every City, Burrough and Market Town there ought to be a common measure according to that of the principal city, *sub pœna* ten pound to the City, five pound to the *Burrough*, and forty shillings to the Market Town for their defaults.

3. The Officers of the Shire Town are to seal such weights and Measures as are offered to them.

4. None may use in Trading any Weights or Measures not sealed as before, under pain to forfeit the value of the Goods weighed, two years Imprisonment, and quadruple Damages. 12. *H.7.* 5. 11 *H.6.8* 8. *H.6.5.* 11. *H.6.8.* 27. *Ed.3.* 1c. 13. *R.* 2. 9. *Dalt. J. P.65. Cook* 4 *Part of his Inst.* 274, 273.

Sect. 2. The power and duty of the Justices of Peace out of Sessions herein.

1. Any two Justices of Peace, *Quorum unus*, may after Examination of the Offence, fine according to discretion, such as buy and sell by unlawful Weights and Measures, or sell with Measures unmarked and unsealed according to the great Standard. But some think this cannot be done but at a private Sessions. 11 H.7.4. *Dal. J. P.177.193.*

Clerk of *Market.*

Some or one of them may and ought to sit with the Clerk of the Market to see that he doth 1. Not seal any Weight or Measure more than once. 2. That he take nothing for sealing after the first time. 3. That he take no mony for any

4. That he do all by the great Standard.

CHAP. XXVII.

Of High-ways and Bridges.

Sect. 1. High ways, Conſtables, Church-wardens.

IN this, theſe things are to be known. 1. That the Conſtables and Church-wardens [under pain to be fined at the Quarter Seſsions] are the *Tueſday* or *Wedneſday* in the *Eaſter* week to call their neighbours, and chooſe two Supraviſors for the amending of the High-wayes leading to Market Towns. And they are to order this work. And if either of them choſen refuſe or neglect his duty in this Office, he forfeits 20. s. a time. *Stat.* 2 & 3 *P. & M.* 8.

Kings high-wayes.

For the diſcovery of the duty of theſe Officers and the Law in this point, theſe things are to be known. 1. That they have to do with no ways but the ways called the Kings High-ways. And ſo it hath bean reſolved by the Judges in the upper Bench, for the Statute is *High-wayes leading to Market Towns.*

Notice.

2. The Conſtables and the Church-wardens of the Pariſh are at the time of chuſing of theſe Officers, to name and appoint ſix days, to be before the Nativity of Saint *John the Baptiſt* then next following, ſet apart for the amending of the High-wayes; and they are to give notice thereof the next Sunday after in publick in the Church. And this being done, theſe Officers, *viz.* the

the Surveyors of the High-ways, are to see that the same be observed, and that all the Parishoners do their work on the same days in manner as followeth. Cap. 27. Surveyors.

3. Every person having a Plow-land in Tillage or in Pasture in the same Parish, or keeping there a Plow or a Draught, shall find and send one every day to the place appointed, one Wain or cart provided after the fashion of the county, with Oxen, &c. fit for the carriage, and with necessary Tools fit for the Work, and with two able men, and then and there these men must do such Work with their Plow, &c. as they shall be appointed to do by the Surveyors aforesaid, by the space of eight hours on every of the said dayes, under paine to forfeit for every default ten shillings. And every other Housholder, Cottager, and Labourer of the Parish (able to work, and being no hired Servant by the year) must by himself or some other able man, be then and there ready to work, and work every one of the said six days by the space of eight hours, as they shall be appointed by the said Surveyors, under pain to forfeit 12.d. for every day they shal make default herein. In the explication of which Branch, these things are to be known. Plow-land.

1. That a Plow-land is not of any certain content, but ordinarily so much as one plow may plow in one year, which in some Countries is more, in some lesse, according to the heavinesse of the Soil. Plow-land.

2. That so many Plows as men usually have and use in the Summer about their own businesse, so many they are to bring with them to this work. So that (for example) if a man with one

Cap. 27. one Plow and five or ſix Horſes ſhall plow ſeven or eight ſcore Acres of arable land, and ſhall uſually go in the Summer time with two Carts, or Draughts; in this caſe it ſeems he is to come with two Carts, or Draughts to this ſervice. And he that occupieth forty or fifty Acres of land, and keepeth onely three Horſes, and one Draught, or Cart, he is to come with one Draught, or Cart.

3. If a man keep onely two Horſes, and a Cart for his own buſineſſe: in this caſe, it ſeems he is to come with his Cart, and two Horſes, provided with a man, or men, to manage them.

4. He that hath a Plow-land, and hath no plow, but doth ſuffer his land to lie freſh, yet is to find and ſend a plow to this work. And ſo it was agreed by the Judges in the *Kings Bench*, *Mic.* 21. *Jac.*

5. A Plow-land may contain Houſe, Medow, Paſture, and Wood: and therefore if one have ſo much of this as will keep a plow, yeeld tillage for it, if part of it were eared: in this caſe, it ſeems, he is bound to ſend his plow, or elſe to pay for the ſame the penalty appointed by the Statute for his neglect.

6. Hee that keepeth a Plow or Draught for carriage, albeit he occupie little or no land, or paſture in his owne hands, yet ſuch a one is bound by the Statute to ſend his plow to this ſervice.

7. He that occupieth a Plow-land, lying in tillage or paſture in ſeverall Pariſhes, ſhall be chargeable to the amending of the High-wayes in the pariſh where he dwelleth, as farre as any perſon

perſon having a Plow-land in any one pariſh, is chargeable. Cap. 27.

8. Every perſon keeping in his hands and poſſeſſion, divers plow-lands, ſhall be charged to find in each Town or Pariſh, where the Plow-lands, being in his occupation, do lie, one Cart, &c. furniſhed for the reparation of the High-wayes in the ſeverall pariſhes where his land doth lie, as if he were a pariſhioner dwelling in the pariſh where the plow-land doth lie.

4. If a man be chargeable but as a Cottager, yet if he be in the ſubſidy five pounds in goods or forty ſhillings in lands, ſo long as he ſtands at that rate, hee is to ſend two able men to the work every one of the ſix dayes.

5. If the Surveyors ſhall think any of the Plows or Carts to be needleſſe any of the dayes, they may ſpare them, and in ſtead thereof require two able men, the which muſt come, under paine to forfeit twelve pence a man for every default.

6. Theſe Officers muſt ſee the work be done according to the direction of the Statutes, and every man is to ſee that he doth his part therein. But if the Surveyors themſelves ſhall licenſe any man to do leſſe then his work, this will excuſe him.

7. The Owners of the grounds adjoyning to the High-wayes, are to take care that all the Fences, Hedges and Ditches next adjoyning on either ſide of the ſame, be from time to time diked, ſcowred, repaired, and kept low; and that all the trees and buſhes therein be cut down, under pain to loſe for every default ten ſhillings. Hedges and ditches next the High-wayes.

And

Cap. 27. And if any man hath any Ditch in his own Ground, that doth ſerve to lead away the water out of the High-way, and he doth not ſcowre and keep the ſame cleane, ſo as to convey away the water, he ſhall forfeit for every Rod not ſo ſcowred twelve pence. And if any man that hath a Ditch lying by the high-wayes ſide, doth caſt the ſame up into the high-way, and then ſuffer the ſame to lie there by the ſpace of ſix moneths, to the annoyance of the high-way, he ſhall forfeit for every Load ſo caſt up twelve pence.

Nuſance.

8. Theſe Officers may, if they ſee cauſe, for the amendment of the high-wayes, take and carry away ſo much of the Rubbiſh and ſmalleſt broken ſtones already digged of any mans Quarry, lying within the ſame Pariſh, without leave of the Owner, as they ſhall think needfull: but they may not without licenſe dig in any mans Quarry for new ſtones, much leſſe take away any mans ſtones already digged. And if there be no ſuch Rubbiſh to be found in any ſuch Quarry within the ſaid Pariſh, then they may enter into any mans ſeveral Ground (within the Pariſh) lying near the place where the wayes are decayed, and there, if they ſee hope of finding materials fit for Reparation thereof, may dig a new Quarry without any leave of the Owner of the Ground; or they may enter upon any mans ground, and gather ſtones that lie diſperſed there. But they may not without leave dig for any new Quarry in the Houſe, Garden, Orchard, or Medow of any man; nor (albeit it be in another Ground) dig more then one pit, and the ſame in breadth or length not above ten yards over at the moſt. And then alſo they muſt take care that the ſame

be

be within one moneth after filled up again at the Charge of the Pariſh, under paine to forfeit five Marks to the Owner of the Ground. And if there bee any Spring, or water in the high-way, that doth annoy the high-way, they may turn the ſame out of the high-way into any mans Ditches, according to their diſcretion. Cap. 27.

9. They muſt within one moneth after any default is made in any of the particulars aforeſaid, preſent the ſame to the next Juſtice of Peace, under paine to forfeit forty ſhillings for every neglect.

10. If any man offend againſt the Statute of 2 & 3 *Phil. & Mar.* 1. If the Conſtables and Churchwardens ſhall not make a due Election of theſe Officers, and ſet down, and give notice of the Times and Dayes for the Work; Or if the Surveyors do not look to, and order the Work; or the Pariſhioners do not wait upon the work as aforeſaid; in all theſe caſes, the Offender may be puniſhed by fine or amercement in the Quarter Seſſions, or Leet, according to the diſcretion of the Juſtices of the Peace, or the Steward. And theſe Fines and Amercements are to be levied and imployed by the high Conſtable. And if any man offend againſt the Statute of 5 *Eliz.* 1. If theſe Officers after they have digged in any mans incloſed Ground, ſhal not fill the Pit again, or if they ſhall not preſent the Defaults to the next Juſtice of Peace, as aforeſaid; or if any of the high-wayes ſhall be un-repaired, or the Owners of Ground ſhall not cut up their Buſhes, and ſcowre their Ditches adjoyning to the high-way; in theſe caſes, the Offender may be puniſhed by Fine at the Quarter Seſſions according

to

Cap. 27. to the diſcretion of the Juſtices of Peace. And theſe fines are to be levied and imployed, as fines and Amercements levied upon the Tranſgreſſours of the former Statutes. And if any man offend againſt the Statute of 18. *Eliz. cap. 9. i.* If any man caſt ſoil into the High-way, and do not remove it within the time aforeſaid, or do not ſcowre their Ditches, &c. and cut down their Buſhes in the High-wayes; the forfeitures of theſe men (being ſet downe in certaine by the ſame Statute) may be levied by theſe Officers immediately by diſtreſſe and ſale of the Offenders goods upon a Warrant ſent from the Juſtices of Aſſiſe, Juſtices of the Peace, or Steward of a Leet, before whom the ſame perſons ſhall bi convict. And if they be negligent, and do it not within a year, then the Conſtables and Church-wardens of the place may levy the ſame, as money is uſed to be levied upon an Amercement in a Leet.

Incloſure, 11 Such as make incloſures next the High-way, muſt amend the way next to the incloſure, otherwiſe it muſt be amended at the charge of the Town.

12 High ways leading from Market to Market, ſhould have neither dike or buſh, wherein Thieves may lurk, within two hundred foot of either ſide.

13 The Lord of a Park that doth incloſe, muſt ſet out two hundred foot on each ſide, from the way, or a ſufficient Wall, or Ditch, or a Hedge, that the offenders may not eſcape. *Dals. J. P. in ch. 26.*

14 The Bailiffe or High-Conſtable muſt levie the Amercements eſtreated for theſe offen-

ces

ces, make a true account, pay the remaining money to the Conſtables and Church-wardens of the Pariſh, who muſt imploy the ſame on the High-wayes, *ſub pœna* five pounds. And if they refuſe to account or pay, they may be impriſoned till they do it. Cap. 27. Account. Commitment.

15. It ſeems theſe Statutes extend not to common Bridges, and that there is another remedy for them, which followeth. *Cook. 2. part of his Inſtitutes, 701.*

16. If the offender hath been puniſhed in a *Leet* for that herein whereof they have conuſance, the Juſtices are not to puniſh him.

17. If all this labour appointed by the Statutes to be beſtowed on High-wayes, be not ſufficient for the amendment thereof, the Pariſh muſt ſupply it: For the Pariſhioners of every Pariſh are to look to their High-wayes, that they bee well repaired and kept, at their perill; for an information of an Indictment may be (by the very Common Law) preferred for the King againſt the Inhabitants of a Pariſh, for not repairing of their High-wayes; and thereupon they may be fined to the King: and in this caſe the fines ſhall not go to the uſe of the High-wayes, as the forfeitures and the penalties for the breaches of the Statutes ſhall do. Indictment.

By common right common Bridges are to be repaired by the whole County; for it is for all their eaſe. 2. Thoſe and their Anceſtours, who time out of mind have been uſed to repaire Bridges, muſt doe it, and may be forced to it. And thus a man may bee charged either *ratione tenuræ*, for that there thoſe whoſe eſtate they have in that land, have been uſed to do it. Bridges.

Or

Cap. 27. Or by *Prescription*, that such Bodies politick or corporate, have been used time out of mind to do it: For otherwise, they that have lands adjoyning, are not bound. But a voluntary making will not charge a man to do it. 3. If it cannot be known what person or place should do it, it must be known by the places thereabouts, by order of four Justices of the Peace. 22. H. 8. 5. 4. A Bridge lying in a Corporation, or Franchise, the Hundred or Guildable shall not be chargeable with it, *et sic è converso.* 5. If the Bridge lie in two severall Counties, or other Divisions, both Counties must contribute towards it. *Dalt. J. P. ch.* 13. 6. They that are to repair a Bridge, are to amend the way at both ends of it for three hundred foot. *Cook. 2 part. f.* 700. 7. The remedy, if it be not amended, if it be a private Bridge to a Mill, &c. where another hath a way, must be by the Writ, *De ponte reparando.* But if for the Publick, it must bee by presentment before Judges of the *Kings Bench*, Justices in *Eyre*, or Commissioners of *Oyre* and *Terminer*, or Justices of Peace, as followeth *Cook, idem.* 8. Four Justices, *Quorum unus*, may enjoyne the County to doe it by a Rate on every man without exception, which must be in parchment in every Hundred, under the Justices Seales, and then delivered to the Collectors, who afterwards may distraine for it *ex officio*, in any place within the Hundred; and this one of them may do with the consent of the other.

Rate.

Sect. 2. The power and duty of the Justices of peace out

Any one Justice of Peace may present to the Sessions any default of the High-wayes upon his own view; and this presentment is of as much

much force as if it were found by a Jury; but it is intraverſable. And he may take the Preſentment of the Supraviſors of the High-wayes, or any under-officers touching any default about them. And this he muſt return to the next Quarter Seſſions. Alſo he may cauſe High-wayes to be enlarged, and cleanſed of trees and buſhes, according to the Statute of *Wincheſter*. But there muſt be two, *Quorum unus*, to compell and take the accounts of any officers that have received any forfeitures for any offence about the High-wayes upon the Statutes; and to impriſon them till they do account or pay the money in their hands.

Cap. 27. of Seſſions herein. Preſentment. Certificate.

Commitment.

And there muſt be four, *Quorum unus*, (and where are not ſo many, it cannot be done) who with the conſtables, or two of the inhabitants of every Pariſh (and without their aſſent it cannot be done) may tax the inhabitants in any places within the Shire for the repairing of a Bridge, or the High-way within 300 foot of it, when it is unknown who ought to repaire it, 5. *Eliz.* 13. 18. *Eliz.* 9. 3. *M.* 8. *Cook* 2 *part.* 701. And they may appoint two collectors to gather the money, and two Surveyors to look to the work, and give account of it, and of the money, and give them allowance for their pains, and call them or their Executors, or Adminiſtrators to account. But it is ſaid, that the ſafeſt way of doing this, is at the generall Seſſions, *Coo.* 2 *part of his Inſt.* 705. Four of them, *Quorum unus*, having made the rate for *Chepſtow* Bridge, may make Collectors and Surveyors for the gathering of the money and overſight of the work. And if any of them, their Executors or Adminiſtrators,

Rate.

Collectors.

Chepſtow Bridge.

Cap. 28. ſtrators, refuſe to account, they may compel them to it, and to pay over the money in their hands, or commit them to priſon till they do ſo, 3 *Fac.* 23.

CHAP. XXVIII.

Of Warrants and Proceſſe.

Sect. 1. The power and duty of Juſtices of Peace herein out of quarter Seſſions. To whom.

FOr the better underſtanding of the Law herein, theſe things are to be known.

1 That the Juſtice of Peace may direct his Warrant to the Sheriff, Bailiff, Conſtable, or other Officer, or to any other perſon he ſhall think fit; but the beſt way is to direct it to an Officer.

2 He may by word of mouth give Warrant to one to arreſt another in his preſence: As if a Riot, Affray, or threatning be in his preſence, he may command any man, Officer or other, to arreſt the offendors. But if the party to be arreſted be abſent, *contra.* For there the Warrant muſt be in writing under the Juſtices of Peace his hand and ſeal, or hand at leaſt. And yet in caſe of an inſurrection, or preſent danger, the Juſtice may by word require men to go to ſuppreſſe it, and arreſt the offenders. *Dalton. J. P. ch.* 117.

3. Their Warrants in writing muſt be with their hands to them, and ſeals alſo, where the Statute ſpeaks of Warrant under their hand and ſeal, and it is beſt in all caſes to put their ſeals to them. *The ſame.*

4. If

Cap. 28.

4. If it be for the Peace or good behaviour, it must alwayes expreſſe the cauſe, to the end the Party may bring Sureties with him. But if it be for any great offence, as Treaſon, Felony, conſpiracy, Riot, or the like, it need not expreſſe any cauſe; but to ſay, *To anſwer to ſuch matters as ſhall be objected againſt you on the behalf of the Keepers of the, &c.* which is uſual now. *Dalt. Juſt. P. in cap.* 117. But much diſliked by *Lam. f.* 87.

For the peace. Good behaviour. Felony.

5. It muſt expreſſe the year and day when it is made. And it is good to ſet down the place. For a Warrant made by a Juſtice of Peace out of his county is queſtionable. But it is clear the Officer cannot carry the offender out of the county. *Dal. J. P. c.* 117. 21. *H.* 7. 22.

Time. Place. Officer.

6. It muſt be perfect. For it is dangerous to ſend out a Warrant with a blank. *Crom. Jur. of Courts.* 34.

Blank.

7. The Juſtice may make his VVarrant (in caſe of the Peace and good behaviour) to bring the party before himſelf. And this is the beſt Form, though the other form to ſay (or ſome other Juſtice) is more uſuall. *Cook* 5. 59. *Broo. Peace.* 9. *Dalt. J. P. f.* 406. Or he may make his warrant to attach him, and bring him to the next Seſſions to be bound there. And this warrant they may grant in divers other caſes.

Peace. Good behaviour.

8. The Juſtice of peace may by his warrant require a man to be at the Seſsions to give Evidence for the common-wealth. And if he do not appear, he may perhaps bind him to the good behaviour, or there may go forth from that Seſsions a Precept to attach his body for his contempt. *Dal. J. P.* 407.

To give in evidence. Good behaviour. To attach the perſon.

Cap. 28.

To attach the perſon.

9 Any Juſtice of Peace may ſend his Warrant, 1. To arreſt or attach one that hath broken the Peace, or committed other miſdemeanour againſt the peace, to find ſureties for the Peace, or good Behaviour, as the caſe is, *Dalt. J. P.* 407.

To arreſt Felons.

2 Warrants to attach perſons ſuſpect of Felony, before they be indicted of it, though they ſeem ſcarce warrantable, yet being *Pro bono Publico*, they are tolerated. *Dalt. J. P. fo.* 407. 408. 3. Juſtices uſe to grant warrants to bring men before, or to attach the offender to be at the next Seſſions, for not paying Town rates. *Sed quære quo Warranto. Dalt. J. P.* 407. So they uſe where a Statute gives a Juſtice of Peace power to compell men to do a thing, to call them in before them, that they may take order therein. 4. And where power is given to any Juſtice of Peace to hear, and determine, or to puniſh offenders, as convict upon their own confeſſion or examination of witneſſes (which as it ſeems muſt be at a private Seſſions) and then in congruity they may grant out their warrants againſt ſuch Offenders; or at leaſt may ſend to them to appear before them to anſwer the matter, and then determine it. And in theſe caſes the offence being found by enquiry, they may grant out proceſs to the Sheriff, or party, as at the Seſſions under their own *Teſte*, and fine or commit til payment, or bail given, or receive the Traverſe of the offender. *Dalt. J. P.* 193.

To appear.

Fine.

Cõmitment.

Sect. 2.

Upon penall Lawes.

To grant warrant againſt offenders upon Penal Statutes before Indictment (though the Statutes be in the power of the Juſtice, yet) it ſeems unwarrantable, unleſs there be a ſpeciall power given ſo to do, as in 5. *Eliz.* 4. 23. *Eliz.* 10. 39

Eliz.

Eliz. 1. And yet this is usuall. And after Indict- 31. Cap. Processe.
ment, the processe must be the ordinary processe of the Court. *Dalt. J. P.* 408. 409. But if the offence by the Statute amount to the breach of the Peace or good behaviour, there the Justices may bind him to the Sessions, and in the *interim*, to be of the good behaviour. And yet *see the Resolutions of the Judges upon the Statute of* 43. *Eliz. for the Poor:* For thereby, it seemes, they may send warrant before Indictments. Two Justices of Peace, *Quorum unus*, upon complaint of the party grieved, may make like processes as in trespass, against the Sheriff, under-Sheriff, or any of his Officers offending against 11. *H.* 7. 15. to appear before them to answer it. *Dalt. J. P.* 166.

Bind over. Good behaviour.

CHAP. XXIX.

Of Churches, and the Reparation thereof, and Church Duties.

FOr the better understanding hereof, these things must first be premised. 1. The parishoners of every parish where Church-wardens have been made, must yearly meet together on the *Munday* or *Tuesday* in *Easter* week, and then the major part of them together must chuse one, two, three, or four of the parish to be Church-wardens, under pain of forty shillings to be forfeited by the parish to the use of the poor there. *Sect.* 1. For making of Church-wardens.

Cap. 29.

2. This choice muſt be allowed under the hand and ſeals of two of the next Juſtices of Peace.

Their power and duty in making and levying of Rates.

3. Theſe Officers with the Over-ſeers of the Poor, or the greater part of them together, may make Rates for the raiſing of money to do that which they have to do in the execution of their Office. And as touching this point, theſe things are to bee known. 1. Theſe Rates are to be made for the raiſing of money before there be need, as for the repairing of a Church before it bee in decay, and ſo for the like occaſion. 2. They may raiſe money by Rates, for the buying of Books, providing of Bread and Wine, repairing the Church-yard or burying place, for the *Kings Bench*, *Marſhalſie*, and the like. And ſo alſo it ſeems for the Tower or Bels amending, and for the amending of the Church; but the Church to be repaired muſt be a Parochiall Church, not a Cathedrall, or Collegiate Church; nor muſt the Church be quite downe, but onely decayed; for no Rate can bee made to build a new Church, nor to mend the Chancel, or Iſles, belonging to any other man to repair. 3. They may for theſe cauſes rate every Inhabitant and Occupier of Lands, Tithes impropriate, Woods, or other Hereditaments within the Pariſh. 4. The churchwardens muſt give publick notice in the Church, when, and where they will make the Rate.

5. The Rate muſt be equall, it muſt be therefore upon every Pariſhoner, and not upon ſome of the Pariſhoners onely, and it muſt be upon every of them equally, (*viz.*) according to the quantity and quality of their eſtates and lands within

within the Pariſh, wherein they may rate by the Yard, Acre, or otherwiſe, as they think fit, ſo as it be equall and according to the true value in an equall proportion. Cap. 29.

6. If a man of another Pariſh occupy lands in that Pariſh of his own; in this caſe the Churchwardens of that Pariſh wherein his land lyeth, may rate him for the *C*hurch-payment to that Pariſh, according to the value of his land; and this albeit there be no houſe upon it, and albeit the Owner and Occupier dwell in another Pariſh: for as to this purpoſe he ſhall be ſaid a Pariſhioner, and therefore he may, if he pleaſe, come in and frequent the *C*hurch of that Pariſh, as the *C*hurch of the Pariſh wherein hee lives. And where the Landlord and Tenant both doe live out of the Pariſh, it ſeemes the *C*hurchwardens may rate either of them at their election. [But ſome hold that in theſe and ſuch like caſes the rate muſt alwayes be upon the Occupier of the Land, and not upon the Landlord.] Howbeit, in caſe where the Farmer or Occupier of the Lands doth live within the Pariſh where the rate is made, there he onely, and not the Landlord, ſhall be rated: For the Tenant is to be rated for the whole value of the Land, and therefore the Landlord is not to be rated again for the Rent he doth receive out of the Land, for then the Land would be twice rated. And in this caſe there is a Pariſhoner and Inhabitant chargeable, and receit of rent out of the Pariſh for land within the Pariſh, by a man that lives in another Pariſh, will not make him a Pariſhioner. And yet in caſe where the Landlord and Tenant both live within the Pa-

Cap. 29. riſh where the rate is made, there perhaps the Churchwardens may rate which of them they pleaſe, yet ſo as they be not both rated for the ſame thing. But a man that doth neither dwell within the pariſh, nor hath land within the pariſh, cannot be rated at all towards the Church; and therefore if a Butcher come thither (being a Market Town) to ſell meat, and have a fixed Stall there, this will not make him a pariſhoner, nor chargeable to the Church.

7. After the rate is ſo made, it muſt be put in writing, and then it will be good to have the hands of the Churchwardens, and ſo many of the pariſhoners hands as are agreeing to it.

8. The rate made by them, muſt be confirmed by the two next Juſtices of peace.

9. If any man refuſe to pay his rates, the preſent or ſubſequent Churchwardens may by Warrant under the hands and ſeales of the two next Juſtices, levy them, and all Arrears thereof, and two ſhillings ſix pence for the charge.

10. If any man be grieved with the rate, or any thing done upon the new Ordinance of 1647. He may have reliefe at the next Quarter Seſſions.

4. They muſt within four dayes after their yeare ended, and new choſen, give account to their ſucceſſours, and the two next Juſtices, and pay over the money in their hands to their ſucceſſours.

5. Iſles and Chancels are to be repaired according to the cuſtome; and if the parties refuſe, the Churchwardens may by ſuit to the Juſtices of the peace, compell them to it, as they themſelves are compelled to repair the Church.

6. They

6. They are to receive and dispose the rents of Lands or Annuities given towards repair of Churches, and Church duties, according to the intent of the Donor; every default in any of these things, is twenty shillings to the use of the poor of the place. See more for this in my Book of the churchwardens office at large.

Sect. 2. The duty and power of Justices herein out of Sessions.

The duty and power of the Justices out of Sessions, lieth in these things: 1. Two of them are under their Hands and Seales to allow the choyce of churchwardens made by the Parish. 2. Two of them may, and must confirm the rates duely made by the churchwardens, according to the Ordinance of Parliament. 3. Two of them may, and must cause by a Warrant under their Hands and Seals to the present or subsequent churchwardens, 1. To be levied the rates made, and the arrears thereof. 2. To be levied all forfeitures for any offence against that Ordinance. 3. To be levied all such money as shall be remaining in the hands of any churchwarden upon his account. 4. To be levied two shillings six pence for the charge upon the persons paying the same, and to deliver the overplus of the distresse. 4. And for lack of distresse, they are to send the parties that have no distresse, or refuse to pay, to Gaole without bail till they pay it. 5. They may send the churchwarden refusing to account, to Gaole without bail, till he do account and pay the money in his hands upon account. 6. Two Justices are with the subsequent churchwardens to take the account of the old churchwardens. 7. One Justice, upon Information given him, that a Church, Chancell, or Isle is ruinous, may examine

Cap. 29. mine it, and upon his owne view, or a certificate of the Miniſter, and ſome of the pariſh, appoint under his hand and ſeal to the Church-wardens, what ſhall be done, and by what time, for repair of the Church, and he that is to amend the iſle or chancel for the repair thereof; and if it be not done accordingly, bind them over to the Quarter Seſſions, where each of them may be fined as the Juſtices pleaſe, not above forty ſhillings to the uſe of the Poor, and committed till he pay it. 8. Upon complaint, any two of the Juſtices may give a warrant to require the parties to pay it, or binde over to appeare at the Quarter Seſſions. 9. If the Pariſhioners, or any of them doe refuſe to pay the Pariſh Clerk or Sexton duly choſen, his due fees, any of the two next Juſtices may by warrant under their hands and ſeals, order the Pariſhioners to pay the ſame: By warrant from two Juſtices, in ſuch manner as the rates made for Church-wardens are by this Ordinance ordered to be levied. *Ord. Feb* 9. 1647. 10. It ſeems alſo they may by proof of Witneſſes on oath, hear and determine any offence againſt this *Ord. of Feb.* 9. 1647.

Sexton or Pariſh Clerk.

CHAP.

CHAP. XXX.

Of Tithes, and the Payment thereof.

FOr the opening of this, these things are to be known. 1. Every person must fully, truly, and effectually set out, yield and pay all manner of Tithes, Offerings, Oblations, Obventions, rates for Tithes, and all Duties commonly called Tithes, and all Arrears thereof to all and every the respective owners, proprietors, impropriators, and possessors, as well Lay as Ecclesiasticall, respectively, their Executors, and Administrators of Parsonages, Vicarages, or Rectories, either impropriate, presentative, or donative, and of portions of Tithes, according to the Law, custome, prescription, composition, or contract respectively, by which they or any of them ought to have been set out, yeilded, and payed at the beginning of this Parliament, or two years before, *Ord.* 8. *Nov.* 1644. 2. Where any person out of the city of *London* hath since two years before this Parliament, substracted, or hereafter shall substract, withdraw, or fail in the payment thereof, the party grieved, his Executors or Administrators, may be relieved by two of the Justices of the Peace, *Ord.* 1644. 3. This Act doth extend to Ministers placed by authority of this Parliament, *Ord.* 9. *Aug.* 1647. 4. Ministers placed by the *Parliament*, or its power, if in the doing their Office, or receiving their dues, they be disturbed by malignant Ministers ejected from thence, or any

others

Cap. 30. others by their means, they may be relieved by complaint to the Juſtices of peace, *Ord.* 23. *Aug.* 1647. 5. If the party ordered to pay Tithes, be grieved with the Juſtices Order herein, he may by complaint bring the matter into chancery, and there it ſhall be re-heard, judged and determined. 6. No Appeal is to be allowed herein, except the party do firſt lay down in mony with the Juſtices, or in chancery, the ful value of the Tithes adjudged, and treble coſts, not exceeding 10.li. by way of ſecurity to proſecute his Appeal with effect, and to render double coſts and damages to the party delayed, in caſe relief be not given on the Appeal by the Proſecutor, this laſt Branch is to continue till 1. *Nov.* 1650. *Ord.* 20. *Oct.* 1648.

Sect. 2. The power and duty of Juſtices of Peace herein out of Seſſions.

Any two Juſtices of peace not being Patron or parties of the place where the ſubſtraction is, nor being any way intereſſed in the things in queſtion, may out of ſeſſions, 1. Summon the perſon complained of before them. 2. Upon default, ſend the warrant to their conſtable or other officer to ſummon the party again before them. 3. Upon a ſecond default, the ſummons being proved by oath, or upon his Appearance by oaths of witneſſes, and other proofs on either ſide, hear and determine the matter, and by writing under their hands and ſeals adjudg the caſe, and give reaſonable coſts and damages to either party, as they ſhall think fit. 4. They may alſo, if they will, give treble damages, where the Statute doth allow it. 5. If the party do not within 30 daies after notice of this judgment given to him, pay the Tithes or mony ſo adjudged according to the judgment, then upon complaint, the ſame Juſtices may give a warrant to the plaintiff, the conſtable or ſuch other perſon, or perſons

as the plaintiff shal name, to distrain and sell his Goods and chattels to satisfie it, returning the overplus. 6. If no distress can be found sufficient to do this, the same or any other Justices may commit him to prison, without bail, til he do satisfie it according to the judgment. *Ord.* 8. *Nov.* 1644. and 9. *Aug.* 1647. 7. If the Officer or other person shall not duly execute their warrants herein, they may fine him 40 s. or under, to the use of the poor of the parish, and send their warrant to whom they please to levie it of their goods and chattels. *Ord.* 20. *Oct.* 1648. These two last clauses contained in this last head are to continue but to 1 *Nov.* 1650. But it is to be enquired if these two last clauses be not revived, by the Act of 4. *April* 1648. for by this all the powers given by these Acts, are extended to the City of *London.* 8. If any scandalous or ill affected Minister, put out by Authority of Parliament, shall enter upon him that is put in his room by that Authority, and either by himself or others, shall hinder the Minister put in, of receiving the Tithes and profits, any two Justices may upon proof by oath of two witnesses give such damages as they shal think fit, setle him that is put out in the quiet possession, raise the trained bands or Forces to assist them; and in case of disturbance by them made upon the Minister put in, in the execution of his office, upon proof thereof by two witnesses oaths, commit the offender to prison for a month for every offence. *Ord.* 23. *Aug.* 1647. Cap. 30.

CHAP.

CHAP. XXXI.

Of May Poles.

NO *May* Poles ſhall be ſet up, and if any ſhall be, they muſt be taken down forthwith by the conſtables and church-wardens of the place, *ſub pœna* five ſhillings a week, till it be taken down.

The power and duty of Juſtices of peace herein out of quarter Seſſions.

Any one Juſtice upon view, confeſsion of the party, or proof of one witneſſe, may give warrant under his hand & ſeal to the conſtables or church-wardens of the place where the offence is done, to levy it of the parties Goods by diſtreſſe and ſale, rendring the overplus, and for lack of diſtreſs, to put him in the ſtocks three hours, *Ord. 6. April.* 1644.

CHAP. XXXII.

Of ſuperſtitious Reliques, and the demoliſhing thereof.

FOr the opening of this, take theſe things; 1. All Altars and Tables of ſtone are to be utterly demoliſhed, all crucifixes, croſſes, Images, Pictures of any perſon of the Trinity, Virgin *Mary*, or other *S*aint, were to be defaced. All *C*ommunion Tables were to be removed from the Eaſt end to ſome other convenient

nient place of the Church or Chappell. And all rails about the ſame, all tapers, candle-ſticks about the Communion Table were to be taken down and removed before the firſt day of *Nov.* 1643. 2. This was to be done, and the place to be made up again by the Church-wardens at the charge of the pariſh. 3. Otherwiſe they were to forfeit for twenty dayes default after that time, forty ſhillings to the uſe of the Poor of the pariſh. *Ord. Aug.* 1643. 4. All repreſentations of any Perſons of the Trinity, Angel, or Saint, in and about any Church or Chappell, or other open place whatſoever, ſhall be taken away and demoliſhed. 5. No ſuch muſt be hereafter ſet up. 6. The chancell ground being raiſed for an Altar or Communion Table, muſt be levell'd, and made as it was twenty years ago. 7. No copes, ſurplices, ſuperſtitious Veſtments, hoods, or Rood-lofts, or Fonts, ſhall be, or be any more uſed in any Church, but ſhall be utterly defaced. 8. No croſs, crucifix, picture, or repreſentation of any Perſon of the Trinity, Saint or Angel, ſhall be, or continue upon any place or thing uſed, or to bee uſed about the worſhip of God. 9. All Organs and the frames and caſes wherein they ſtand, in Churches or Chappels, ſhall be taken downe and utterly defaced, and none other ſhall be ſet up hereafter in their places. 10. But Images, pictures, or coats of Arms in glaſſe, ſtone or otherwiſe, in a Church, or other place, ſet up for the Monument of a King, or other perſon not reputed a Saint, is not to be taken down. 11. Church-wardens or Over-ſeers of the poor may ſee this done. Cap. 32.

Any

Cap. 33. The power and duty of the Justices of Peace out of Sessions.

Any one Justice of Peace where these things were before, and were not taken downe by the time of the first of *Nov.* may upon Information to him given, cause it to be done at the charge of the parish, or if he will the *C*hurch-wardens, and Over-seers of the poor may see it done. And the Justice may cause the *C*hurch-wardens to repair it as before, at the charge of the parish. *Ord. May* 1644.

CHAP. XXXIII.

Of Relief to Maimed Souldiers, and the Widowes and Orphanes of slain Souldiers.

Sect. 1.

THE souldier maimed, or disabled in body for work, in the Parliaments service in the late wars, before *May* 1647, must 1. Go to the place where he was setled when he took up Armes. 2. He must get a certificate of his service and hurt received under his captain or comissary Officer. 3. Hee may bring witnesses or his own oath to prove the truth of the certificate to the two next Justices.

The Justices power and duty out of Sessions.

1. The two next Justices to the place where the maimed souldier was setled when he took up Armes, upon such a certificate as before, may examine the truth of the thing by his owne oath, and by witnesses. Or in case the captaines or officers

officers be dead, that he can have no certificate, upon the bare requeſt of perſons of credit, may by Warrant to the Treaſurer, aſſign him relief till the next Quarter Seſſions. 2. And as for the Widowes and Orphans of the ſlain Souldiers in that war, the two next Juſtices may ſet down to the Treaſurer what allowance they ſhall give them out of the Surplus of the mony after the maimed Souldiers be paid. And this order the Treaſurers muſt obey, *Ord. May* 1647. and *Auguſt* 1647. 3. Any two Juſtices may by warrant under their hands, appoint the Treaſurers to pay any money the Juſtices ſhall think fit to any maimed Souldier, V Vidow, or Orphans of Souldiers ſlain, or dead in the ſervice of the Parliament, that are in want. And they muſt acquaint the next *Seſſions* therewith, to the end that the ſame may be continued or determined, as the Juſtices ſhall think fit. *Ord.* 24. *Decem.* 1647. Souldiers of the Army in *England*, *Ireland*, or *Scotland* maimed, and the widows and orphans of ſuch Souldiers ſlain ſince 30. *June* 1649. who lived out of the lines of communication when they took up armes, giving to a Juſtice of Peace a certificate under the hand and ſeal of the Generall, Major Generall, Lieutenant Generall, or Commiſſary Generall of the Army, under which ſuch perſon ſerved; as namely, I *A.B.* do hereby certifie, that the husband of *B.C.* was a Souldier in my Regiment (or in the Regiment, Company or Troop of *G.H.*) was ſlain or died in the ſervice of the Parliament about——laſt, or fell ſick; was wounded or maimed in the ſervice of the Parliament, and deſerves to be relieved according to ſuch orders and directions as the Par- Cap. 3

Cap. 34. Parliament hath or ſhall give. Or ſuch Souldiers, orphans, or widows, being ſent unto them by the Treaſurers for maimed Souldiers, by a paſſe under their hands and publick ſeal of their office appointed of purpoſe, every ſuch Juſtice muſt preſently provide for them not above four ſhillings a week to the Souldier or widow. Or ſee the be ſet to work that they may get ſo much by the week, or add an additional maintenance to make up ſo much, and take care to ſettle their children Apprentices. This Act to continue till *February* 1652. Act of 30 *September* 1652.

CHAP. XXXIV.

Of calling Officers to account for mony received to publick uſe.

1. TWo or more Juſtices of peace may out of Seſsions call all Treaſurers, High-Conſtables, petty-Conſtbles, or other perſons who have been formerly entruſted with the collecting, receipt, or diſpoſing of any mony charged upon any pariſh, by the Statutes of 43. *Eliz.* and whereof no account hath been given, their Executors or Adminiſtrators, and order the payment of ſuch money as ſhall be found in their hands to be paid to the preſent or ſucceeding Treaſurer by them appointed. *Ord. May.* 1647. 2. Any two Juſtices, *Quorum unus*, may call any of theſe Officers

ficers who have had any hand in the receiving of theſe monies, for the old or new maimed Souldiers, and take account of them what money is in their hands, or in the hands of any Juſtice of Peace, Treaſurer, or other officer. 3. Two Juſtices, *Quorum unus*, may call officers to account for money received for the uſe of the poor. *Stat.* 43. *Eliz.* Cap. 35.

CHAP. XXXV.

Of taking and certifying Examinations againſt Delinquent Officers.

FOr the opening of this, theſe things are to be known: 1. That no perſon that hath been in Arms againſt the Parliament, or hath been aiding or aſsiſting to the forces of the enemy, by contribution of Mony, Armes, Ammunition, or other aid (not being compelled thereunto) or hath been, or is duly ſequeſtred, and not diſcharged, or is ſequeſtrable, may be elected or conſtituted Major, Alderman Bailiffe, Sheriffe, Juſtice of peace, Steward of any Court, Conſtable, or any other Officer in any citie, countie, Burrough, or Town corporate. 2. If any be ſo elected, the election is void. 3. No ſuch perſon ſhall have any vote in choice of any Major, Recorder, Sheriff, Alderman, Bailiff, Aſſiſtant, Town-Clerk, common-councel-man, Steward of any Court, conſtable, or any other officer, or in the granting

Cap. 35. or paſsing of any Leaſe or Inſtrument whereto the common Seale of any Colledge, Cathedrall Church, Hall, or corporation is to be ſet, or of any copy-hold Lands or Tenements, in any county, city, Burrough, or Town corporate, or either of the Univerſities, or other place whatſoever. 4. Nor ſhall any man bee choſen without the allowance of the Parliament. 5. Nor ſhall any man preſume to accept of, or continue to be in any ſuch office, being choſen, or of the firſt or ſecond company, or of the chamber, or common-councell of any City, Burrough, or town corporate. 6. And if any ſo do, any five of the Committee of indempnity may call the parties offending before them, and examine the matter; which being proved by oath of two witneſſes, may diſcharge the ſame officer elected from his office, and fine him in any ſumme under an hundred pound, halfe to the uſe of the poore of the place, county, or city; and the other halfe to the proſecuter, to be recovered by Action of Debt, Bill, Plaint, or informarion, wherein no protection, Eſſoin, nor Wager of Law ſhall be allowed. 7. And the ſame diſcharge being publiſhed by the committee of Indempnity, a new officer may be coſen by the Electors. 8. This ordinance to continue five years, from 4. *Octob.* 1647. *Ord.* 4. *Octob.* 1647. 9. *September* 1647. Any two or more Juſtices of Peace upon Articles or Informations exhibited againſt any ſuch delinquent magiſtrates or officers, before the committee of Indempnity, and ſent to theſe Juſtices, may thereupon ſend for and examine Witneſſes upon oath, *pro & contra*,

The power and duty of Juſtices of Peace herein out of Seſſions.

contra, and return the same with the Articles and Informations sealed up, to the Committee of Indempnity. *Ord.* 17. *Aug.* 1649. 4. *Oct.* 1649. *Ord.* 9. *Sept.* 1647. Cap. 36.

CHAP. XXXVI.

Of taking and certifying examinations against him that prosecuteth a Man for doing any thing by or under any Ordinance of Parliament.

ANy two or more Justices in case where any one be sued, indicted, or molested for any thing done by authority, or in the service of the Parliament, or during his being in Armes for the Parliament, against any ordinances made for that purpose, may upon complaint by petition, setting out the case to them, send for and examine, upon oath, Witnesses on both sides, and compound it if they can; otherwise send it up to the committee of Indempnity. The petition and deposition sealed up, and they are to give judgment in it, and proceed as in other cases: *Act.* 17. *Aug.* 1649.

CHAP. XXXVII.

Of the Certificate of the Case of a poor prisoner, unable to satisfie his Creditors.

ANY one Justice of peace upon petition made to him by any man that was in prison the fifth of *September*, or the one and twentieth of *December* 1649. within the Countie, upon an Execution or other processe, where the cause originally is for debt, breach of promise, contract or covenant, may send his Warrant in the nature of an *Habeas Corpus cum causa*, under his hand and seal, to the Sheriffe, Gaoler, or Keeper of the prison, returnable at a short day then next following, having respect to the distance of place, to bring the bodie of the prisoner, and returne the cause or causes of his imprisonment before him. And if upon returne thereof it doe appeare the prisoner is in prison for the said causes at the suit of one or more persons: then this Justice at the request of the prisoner, may give him this oath.

That *bona fide* he or she is not worth in possession, reversion, or remainder of any estate reall or personall (except onely the debts due to him or them from the Parliament for the service of the common-wealth) to the value of five pounds, besides necessary wearing apparell and bedding, for himselfe, wife and children, and

and tools necessary for his trade or occupation, not exceeding the value of five pounds, and hath not directly or indirectly sold, leased, or otherwise conveyed or intrusted his or her estate, or any part thereof, thereby to expect any profit, benefit, or advantage, or to deceive or defraud his Creditors: Which done, if hee refuse it, the Justice is to remand him to the same prison. And if the prisoner take the oath, the Justice may without delay by writing under his hand and seal, make a Certificate, or Certificates, both of the prisoners taking oath, and the time and place of the taking thereof, and of the VVarrant in the nature of a *Habeas corpus*, with the returne thereof unto the Court from which the first processe upon which the prisoner is in Execution, did issue, that the Court thereupon may proceed to his discharge. *Act of Parliament.* 24. *Decem.* 1649. and 6. *April.* 1650. Cap. 37.

CHAP. XXXVIII.

Of Stage-Plays.

STage-Playes, Players of Enterludes, and common Players, are Rogues, within 39. *Eliz.* and 7. *Jac.* and so to be used, albeit they be no wanderers, and albeit they had license from the King, or any other so to do. *Ord.* 11 *Feb.* 1647.

The Lord Mayor, and Justices of Peace of *London* and *Westminster*, *Middlesex* and *Surrey*,

Cap. 38. or any two of them within their reſpective Juriſdictions, may demoliſh Stage-galleries, Boxes, &c. that are or ſhall be uſed for Stage-playes, and within two months after the offence, cauſe to be apprehended and openly whip'd in ſome Market-Town within their Juriſdiction, him that upon view or oath of two witneſſes ſhal have acted in any ſuch play, and make the party offending enter into Recognizance with two ſufficient ſureties, never to offend ſo againe, and commit him to priſon if he refuſe ſo to do. And if any ſuch offender ſhall after this offend again, he ſhall be dealt with as an incorrigible Rogue. *Ord.* 11. *Feb.* 1647.

All the money gathered of ſuch as come to ſee any Stage-play and Enterludes, ſhall be forfeited and paid to the Churchwardens of the place, to be diſpoſed to the uſe of the poore thereof. Any two Juſtices of Peace of that County or place, upon complaint thereof, and proofe upon oath of the ſame, may by warrant under their hands and ſeales, command the Conſtables and Church-wardens of the place to levie it on the goods and chattels of him that received it, rending the over-plus.

The power and duty of Juſtices of peace herein out of Seſſions.

Any one Juſtice of peace, upon confeſsion of the party, or proofe of one witneſſe upon oath againſt him, that he hath been preſent at, and a ſpectator at any play or enterlude, may ſend his Warrant to the Church-wardens or Conſtables of the pariſh where the offence is committed, to levie five ſhillings forfeit to the uſe of the poore of the place where the offender dwels, by diſtreſſe and ſale of his goods, rendring the over-plus. *Ord.* 11. *Feb.* 1647.

CHAP.

CHAP. XXXIX.
Of Free Quarter.

FOr the understanding hereof, these things must be knowne: 1. One or more of the commission Officers of each Troop, Company, or Party of Souldiers, that shall be with, and have the command thereof, must by a Ticket under his hand, setting down the names of the Souldiers to whom it is given, appoint his house of Quarter. 2. No Souldier without this may enter into any house but by the owners consent. 3. No such Officer, or Constable, or Head-borough, may appoint Quarters for any Officers or Souldiers in any house but common houses. 4 If he do, and the party grieved complain to two Justices of the Peace, or two of the Commissioners of the monthly Assessments, they shall have relief from the Committee of the Army, and they may defalk fourteen days of his pay the next time for the first offence, and for the next he must be cashiered. 5. If any souldier or officer upon such Ticket, or any pretence whatsoever, take Free Quarter, or go into any house to Quarter, but common houses, without the consent of the owner, upon such proof and certificate as aforesaid, he shall forfeit as before. 6. The Committee of the Army are to allow and satisfie all such persons, as before complaining, such allowance, not being above three dayes, for such unlawful quartering, as they think fit, according to the allowance appointed, and they may deduct it out of the pay of the officer

Cap. 39. officer and ſouldier offending. 7. If any party of Souldiers, Troop, or Company march without a commiſsion officer, the Colonel doth loſe fourteen dayes pay, which the Committee muſt deduct from him, to be born amongſt the field officers of the Regiment; or if it appear to the Committee or Councell of War, the fault is elſe where, they may order a re-imburſment of what is paid on the offenders. 8. If it be a Troop, Company, or Party out of a Regiment, it ſhall be laid upon the captaine, if he be innocent, he ſhall be allowed it out of the offenders pay.

The power of the Juſtices of Peace herein out of Seſſions.

Any two Juſtices of Peace upon complaint to him of any ſuch injury done to him, may examine it upon oath, and ſend the ſame examinations under their hands and ſeales to the Committee of the Army. *Act.* 19. *Decemb.* 1651.

The Ordinance of the fourth of April 1648 having reference only to the Lord *Fairfax*, ſeems to be at an end.

CHAP. XL.

For Diſcovery of Thieves.

1. IF any till 28. February 1654. diſcover to any Juſtice of Peace, or other officer of Juſtice any one that hath or ſhall commit a Robbery or Burglary, and ſhall apprehend him, or cauſe him to be apprehended, upon this conviction of the offender by this meanes, the party that doth diſcloſe ſhall have ten pounds reward,

ward, paid by the Sheriff upon this certificate under the hands of the Judge, or two of the Justices of Peace, before whom the conviction shall be. 2. The Councell of State may give reprives and protection to the discoverer, if he be a person guilty. Cap. 41.

The Justices of Peace having nothing to do herein but to take Information upon the oath of the discoverer, as in other cases of Felonies done, and certifie under their hands the conviction of the offender before them, by the means and procurement of the discoverer. The power of the Justices of Peace out of Sessions.

CHAP. XLI.

Of the Assuming of new Titles.

NOne may after March the 25. 1652. by writing or otherwise, assume any Titles of Honour or dignities given to, or conferred upon them by the late King, since the fourth of *January* 1641. under colour thereof, under pain, if it be of a Duke, Marquis, Earle, Vicount or Baron, of one hundred pounds forfeiture: And if it be of a Baronet or Knight 40 lib. 2. None may voluntarily and knowingly, by writing or otherwise give to any such person these Titles, under pain of 10. s.

Any one Justice of Peace upon confession or oath of one witnesse, may for the later offence cause the ten shillings forfeiture to be levied of the offender by distresse and sale of his goods; and for lack of distresse, cause the party offending to be put in the publick stocks for three hours The power of the Iustices out of Sessions.

Cap. 42. hours. But for the first offence the party must be convicted in the Exchequer, or in the publick Sessions. *Act. Febr.* 4. 1651.

Chap. XLII.
Of Transportation.

If any load any Vessel, with intent to transport any Fullers earth, Clay, Tobacco-pipe-clay, or any other earth or clay, which may be used in the Art of Fulling, beyond sea, he forfeits the things, and three shillings four pence for every pound weight. And if any owner of ground where such clay or earth is digged, be privy to the transportation, and do not discover it to a Justice of Peace, within three months of his knowledge, he forfeits five hundred pounds. And if the Justice of Peace doe not within three moneths after the discovery, returne the same under his hand and seal to one of the Barons of the Exchequer, he forfeits one hundred pounds. And the owner of such ground, where such earth is digged, that shall sell or dispose thereof, must keep a Register book and enter there to whom, and what earth he sels, and where he dwels that hath it, and once in six months give a note in writing thereof to one of the Justices neer the place, on pain of twenty shillings forfeit for every hundred weight.

The power of the Justices herein out of Sessions.

The Justice of Peace hath nothing to do herein out of the Sessions, but to certifie the owners discovery, under the Justices hand and seal, to one of the Barons of the Exchequer within 3. months after the making thereof; and to receive from the

the owner of the ground where the digging is, a note in writing of the earth he doth ſell, when he doth tender it to him. Cap. 43.

CHAP. XLIII.

Of Scandalous Books and Pamphlets.

AS to this, theſe things are to be knowne: 1. None may make, write, publiſh, ſell or utter, or cauſe ſo to be done, any Book, Ballad, Libell, Sheet or Treatiſe of News, (without licenſe of Parliament, or perſons authorized by them) and the name of the Author, Printer, and licenſer prefixed, under pain of 40 s. or impriſonment in the common Gaol, till it be paid, or 40. dayes to be endured by the maker of it, and 20 s. or impriſonment there till this be paid; or 20. days & his Printing tools broken, to be endured by the Printer of it; and 10 s. or impriſonment there untill this be paid, or ten days impriſonment to be endured by the Stationer. The Hawker, Pedler, or Ballad-ſinger is to forfeit all his Books, Pamphlets, and printed papers put to ſale, and to be whip'd as a common Rogue in the place where the offence is committed, or the offender apprehended.

Any one Juſtice of Peace may put in execution theſe things; and upon his own view, or oath of one witneſſe, may convict the offender. And it ſeems to me by the meaning of this Law, he may ſend him to priſon for the time appointed, if he do not pay the ſumm appointed within the time limited. *Ord. 28. Sept. 1647.* The power of the Juſtices of Peace herein out of Seſſions.

CHAP.

CHAP. XLIV.

Of the Justices power and duty in other things.

Sect. 1. The power and duty of the Iustices of Peace out of Quarter Sessions in divers other particulars. About trespasses in Orchards, Woods, &c.

ANy one Justice of Peace, where the offence is committed, or offender apprehended, (but he that is interessed in the matter) may, upon the oath of one sufficient Witnesse, or the parties confession, for the first offence, appoint such recompence to be given to the party grieved, as the Justice shall think fit, by any mean or lewd person, that shall cut or carry away corn, or hay, rob orchards or gardens, break or cut any hedge, pale, raile, or fence, digge, pull up, or take away any fruit-trees, cut or spoile any woods, under-woods, poles or trees standing, (not being Felony) and their procurers and receivers: And if he judge him in his discretion unable to give satisfaction, or he do not make satisfaction according to the order, then hee may make the Constable or other officer of the place where the offence is done, or hee is taken, to whip him, or cause him to bee whipped. And if the Officer doe not whip him, the Justice may commit the officer to prison without baile, till he cause him to be whipped. And for a second offence, some say, (but if he be a common offender herein) the Justice may bind him to the good behaviour, and to appear at Sessions, or

Good Behaviour.

Bind over.

send

send him to the House of correction, 43. *Eliz.* 7. 7 *Car.* 4. *Dalt. J. P.* 57. Cap. 44.

If any offender sent to Gaol by a Justice of Peace, be able to bear his own charges for himselfe and attendance, in his convey thither, and doe not pay that which is reasonable, the Justice may by a Writing under his hand and seal, give warrant to the Constable of the Hundred, or Constable or Tything man of the place where he dwelt, where his goods are, or whence he is committed, to sell so much of his goods or cattels, as the Justice thinks fit to satisfie it, after appreisement by four of the neighbours, rendring to him the overplus, 3. *Jac.* 10. *Sect.* 2. About sending an Offender to Gaol. Warrant.

Any one Justice of Peace may compell a man to take crack'd money, or commit him to prison upon 19 *H.* 7. 15. *Sect.* 3. About crack'd money. Commitment.

Justices have power to hear and determin all defaults about money by the Statute of 17. *Ed.* 4. 1. by *Cook.* 2 *part of his Inst.* 742.

Any one Justice of Peace (as it seems) by proofe of two Witnesses, or by examination of the party, and his own confession, or otherwise at his discretion, may hear and determine all the offences about tyle-making, (*viz.*) if they be made of good earth, and of earth well prepared, and of due assize in length, breadth, and thickness, and may assesse the Fines limited by the Statute. And this, it seems, must be at a privy Sessions by indictment, 1. *Ed.* 4. 4. *Sed Quære of this power*, for some doubt of it. *Lamb.* 197. *Dalt. J. P. fol.* 174. *Sect.* 4. About Tile-making.

There must be two Justices of Peace, *Quorum unus*, to commit such as refuse to obey the order of the Spirituall Judge for Tythes, till it be performed. *Sect.* 5. About Tythes.

Cap. 44. formed. And these upon complaint of any competent Judges for Tythes, for any mis-demeanor of the defendant in a suit of Tythes, or any other duty of the Church, may cause him to be attached and committed to ward, without baile, till he find sureties, and give Bond to obey the Order, 22. *H.*8.7. 27. *H.* 8. 20. 32. *H.*8.7.

Commitment. Bail.

Sect. 6. About Souldiers and Mariners. Commitment.

Any one Justice of Peace may, upon proof, [which may be by witnesses,] commit to prison Souldiers who purloin Horses, Harnesse, or Armour, till they make satisfaction to the owner, 1 *&* 2 *Ed.*6.2. *Dalt. J.P. in Chap.*52. So one may license them after their landing, to passe to the place they would go, 39. *Eliz.*17.

Sect. 7. There must be two Justices to appoint what Fishermen shall be prest for Mariners, 5. *Eliz.*5.

Sect. 8. About Inrolment. Any one Justice of Peace may joyn with the Clerk of the Peace in the inrolment of a Deed of Bargain and Sale, 27. *H.* 8,6.

Sect. 9. About Wines. Any Justice of Peace may (as it seems) upon the requeſt of him to whom deniall of sale of Wine shall bee made at the prices set downe by the Lords, &c. enter into the Vintners House, and sell this wine, and take this money towards the forfeiture for his offence. 24 *H.*8.6.

Sect. 10. About the Revenues of the Hospitals. There must be two or more Justices of Peace to joyn with a Bishop, or his Chancellour, in the taking of an account of the Revenues of an Hospitall, 14 *Eliz.*5. 39 *Eliz.*18. 2. *H.*5. 1.

Sect. 11. About Fish, and fishing. Every Justice of the Peace is a Conservator of the Rivers, and of the Statutes concerning the same, and may appoint under-officers to look to them. And they may for the first offence, burne such Nets and Engines as destroy Fish: for the second offence, imprison the offender

Commitment.

for

for a quarter of a year; and for the third offence, imprison him a year. And he may give a Warrant to levie the forfeitures of them that destroy the brood of Fish. *Dalt. J. P. ch.* 21. 13. *Ed.* 1. 47. 13. *R.* 2. 19. 17. *R.* 2. 9. 3 *Car.* 12. Cap. 44.

Six Justices of the Peace, *Quorum duo*, may for a year after the granting of the Commission of Sewers, execute the same, unlesse a new Commission bee published within the yeare, 13 *Eliz.* 9. *Sect.* 12. About the Rivers.

There must be two, *Quorum unus*, to license Ale-keeping. But any two Justices may license poor people to travell to *Bath* or *Buxton*. And any one Justice of Peace may give a Testimonial to such as have suffered shipwrack, Souldiers and Mariners that come from Sea, of their landing, and place to which, and time in which, they are to go, and license them to travell thither. *Sect.* 13. About making licenses or Testimonials, or Certificates. Mariners.

And any one Justice of Peace may license Labourers to go out of one County into another, to work in the Harvest time, 1 *Jac.* 9. 21. *Jac.* 7. 39. *Eliz.* 4. 39. *Eliz.* 17. 5. *Eliz.* 4. But there must be two to give a testimoniall or license to Servants that depart out of their Masters Service. Labourers. Servants.

One Justice of Peace may certifie deceivable Cloth, or the breach of the Peace before him, into the upper Bench, or any other thing done in his presence: this he may record and certifie. And this is a conviction to which no traverse lyeth. Or joyne with a Customer, to certifie the unlading and selling of corn, and cattell carried from one part of the Realm into another, unto the Customer where it was laden, upon the Statute of fore-stalling. *Sect.* 14. Cloth. Certificate. Fore-stalling.

Or may take the discovery of *Agnus Dei*, *&c.* *Sect.* 15. or *Agnus Dei.*

Cap. 44. formed. And these upon complaint of any competent Judges for Tythes, for any mis-demeanor of the defendant in a suit of Tythes, or any other duty of the Church, may cause him to be attached and committed to ward, without baile, till he find sureties, and give Bond to obey the Order, 22. *H.*8.7. 27. *H.* 8. 20. 32. *H.*8.7.

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Or may take the discovery of *Agnus Dei*, *&c.* *Sect.* 15. or *Agnus Dei.*

Cap. 44. or Popish Priest, &c. and certifie it to the Privy Councell within fourteen dayes.

Popish Priest. Or may take the Submission in writing and oath of any Jesuit or Priest within three dayes of his landing in *England*, and certifie it into the Chancery, *Dalt. J.P.* 49. 5. *Ed.* 6. 14. 13. *Eliz.* 25. 22. *Eliz.* 1. 13. *Eliz.* 2. 27. *Eliz.* 2. But

Apprentice. there must be three to certifie for an Apprentice, that his Parents can spend forty shillings *per annum*, upon 5. *Eliz.* 4. But this is not necessary.

There must be four Justices to joyn with the Lieutenant, Deputy, or Bishop, to license a confined Recusant to go about any speciall businesse he hath to do, by 3. *Jac.* 5.

Sect. 16. About the counterfeiting of false tokens. There must be two, *Quorum unus*, to call in, attach, examine, imprison, or bind them and the Witnesses to the Sessions, such as by false tokens or Letters in others names, shall get into their hands any money or other things, 33. *H.* 8. 1. *Dalt. J.P. ch.* 17.

Sect. 17. About the dividing of a Wood. There must bee two, or more, to divide the fourth part of a Wood, being appointed thereunto by the Sessions, upon the Lords complaint, 35. *H.* 8. 7. 13. *Eliz.* 21.

Sect. 18. About Wax. Any Justice of Peace may examine and search by his discretion, and punish by forfeiture of the work, or value thereof, and fine to the Commonwealth, such as doe sell, or offer to be sold any Candles, or other works of Wax, at a higher Rate then four pence the pound, over the common price of plain wax between Merchant and Merchant, 21. *H.* 6. 12.

Sect. 19. About Logwood in Dying. Any one Justice of Peace upon complaint that any Dier is suspect to use Blockwood, or Logwood in Dying; he may call him before him

him, and examine him or his servants on oath, and if he find any thing, he may bind him with Sureties, and the witnesses to the next Quarter Sessions or Gaol delivery, whither he must certifie the examination. And if he refuse to be bound, send him to Gaol till he doe it. But there must be two Justices to give power to burn the Stuffe, when it is found in any mans house, 23. *Eliz.* 9. 39. *Eliz.* 11. Cap. 44. Bind over. Commitment.

If the owner or occupier of any Mannor-house or lands in the County, worth five pound a year, refuse to pay him that taketh old Crows, Choughs or Rooks upon his Land, after two pence a dozen, upon complaint, any Justice of Peace may cause it to be levied by distresse, upon his goods and chattels. 24. H. 8. 1. *Sect.* 20. About killing Crows, &c.

If any Statute enable one Justice of Peace to take an Inquisition, he may take it; otherwise there must be two Justices of Peace to take an Inquisition. About taking of an Inquisition.

Any two Justices may charge double and punish according to their discretion, such as escape taxations at Subsidies. 3. *Car. Lam.* 336. About such as escape Subsidies.

Any one Justice of Peace may direct the Constable, to sell such deceitfull Malt as he upon search shall find, at such prizes as the Justice shall think fit. 2 *Ed.* 6. 10. 27. *Eliz.* 14. 2. *Jac.* 28. 3. *Car.* 4. *Sect.* 21. About Malt.

The restraint of Malters must be at the Quarter-Sessions by Order. But any two Justices of Peace may, upon confession, or by two witnesses, convict him that doth disobey this Order, and commit him to Gaol three days, and after till he become bound in forty pound, to obey the Order: and this Recognizance any one Justice of Peace may take. 39. *Eliz.* 16.

Cap. 44.

Peace. Oath.

Any one Juſtice of peace may require ſuch as are between fifteen and ſixty, to be ſworn to keep the peace. *Dalt. J. P. in ch. 36.*

Conſtable.

Any one Juſtice of peace may give the Conſtable his Oath. Which muſt be thus.

You ſhall ſwear that you ſhall be true and faithfull to the Common-wealth of England, *as it is now eſtabliſted without a King, or Houſe of Lords; And you ſhall well and truly execute the Office of High-Conſtable of and within the Hundred of* H. *or of Petit Conſtable for and within the Pariſh of* S. S. *and Liberties thereof, to the beſt of your skil and power, untill another be choſen in your room, or you ſhall bee otherwiſe diſcharged by Order of Law.*

Sheriffs and Bailiffs.

There muſt be two, *Quorum unus*, to give the Sheriffe his oath of Supreamacy, and for his office, and this they may do *ex officio*, and without any Commiſſion. So alſo to give the oath to his Bailiffs of Liberty, known Bailiffs Deputies, and Clarks, that ſhall have to doe in returning of any Jury, or Execution of any Proceſſe, who ought to be ſworn; otherwiſe of ſpeciall Bailiffs. 27. *Eliz.* 12. *Dalt. J. P.* 166.

Collectors of Amercements.

Any two Juſtices may give oath to the Collectors of the Sheriffs Amercements for his County Court, that they ſhall collect no more then due. *Dalt. J. P.* 166.

Him that is robbed.

Any Juſtice may give him an Oath that is robbed, and examine him whether he knew him that did the robbery, and if he do, he muſt take a Recognizance of forty pound of him, to proſecute upon 27. *Eliz.* 13.

About them hat have the plague.

Any one Juſtice of Peace may compell him that hath the plague to keep in, and if after command he refuſe, albeit he have not the ſor

upone

upon him, he may punish him as a Vagabond, and bind him for a year to the Good Behaviour. And one Justice may also acccording to his discretion, appoint Searchers, Watchmen, and keepers, &c. But there must be two to set a Rate for the relieſe of the persons infected. *See Rate.* 1 *Jac.* 31. 21. *Jac.* 28. Cap. 44. Vagabond. Good Behaviour. Rate.

Any one Justice of Peace may enter into any house within or without any Liberties, that is unsuspect to have dicing, carding, or any other unlawfull games used in it, and upon view thereof, arrest and imprison him that keepeth them (except he have the keepers of the Liberties License. And he may arrest and imprison all Artificers, Husbandmen, Labourers, Mariners, Fishermen, Watermen, Apprentices, and Servants, and others whatsoever, that play at any unlawfull games at any time, or in any place, but at Christmas, or in their own, or Masters houses, garden, and orchard, and by their Masters license. And any men that shall play at Bowls in any place, but his own garden or orchard, untill they give Sureties in such a sum as the Justice of Peace shal think fit, that they will play no more. 33. *H.* 8, 9. 31. *Eliz.* 5. *Sect.* 23. About unlawfull games. Commitment.

Any one Justice of Peace may according to his discretion, examine all persons that have not Bowes, Shafts, and Arrowes, according to the Statute of 33. *H.* 8, 9. But the offence it seems, if it be punished, must be punished in a Sessions. About Archery. Sessions.

Any one Justice of Peace upon examination (which must bee as it seems of the party) and proof, may commit to Gaole him that is found to shoot in, carry, keep, use, or have in his house, or else-where, any Guns, Crosse-bows, Dags, About Guns Commitment.

Cap. 44. Pistols, or stone-bowes, contrary to 33. *H.* 8. till he pay his ten pounds; the estreat whereof he must send into the Exchequer. *Dal. J. P. c.* 24.

Hares. Cómitment. But there must be two Justices of Peace to commit for three months without bail, unlesse he pay twenty shillings a Hare, &c. he shall kill; forty shillings for a Grey-hound, setting Dog, or Net, and give bond of twenty pound, with two sureties, within a month of his commitment, not to offend again, him that shall shoot at, or kill with gun or bow, any Partridge, Pheasant, House-dove, Pigeon, Hearn, Mallard, Duck, Teale, or any such Fowl, or any Hare; or shall take or kill any Partridge, Pheasant, House-dove or Pigeon, with any engine or Instrument, or take or destroy the egges of Pheasants, Partridge or Swan, ot trace any Hare in the snow, or take it with any cords, or keep any Grey-hound, setting Dog or Net, being proved by confession, or oath of two witnesses.

Pheasants, Partridges &c.

Grey-hound. Setting dogs Nets.

Any two Justices of Peace may by 1 *Jac.* 27. & 7. *Jac.* 21. hear and determine out of Sessions, any offences for destroying Partridges and Pheasants, &c. But he that is convict upon the 23 *Eliz.* 10. for taking Pheasants and Partridges in the night, may be bound by any one Justice of peace not to offend so again in two years.

Warrant to search. And two Justices of peace may give Warrant to search the houses of persons suspect, and disabled to keep setting Dogs, or nets, and to kill the Dogs, and cut the nets in pieces that they find, 7. *Jac.* 11.

Also any one Justice of peace may examine him that killeth Partridges or Pheasants in the night, and hath not been punished for it, and take

take bond for his appearance at the next generall Sessions of the Peace to answer the offence, upon 23 *Eliz.* 10. Cap. 44. Bind over.

He that hath free Warren, Mannor, or free Land of forty pounds, or Lease for Life of fourscore pounds *per annum*, clearly in his owne or Wives right, or four hundred pounds goods or chattels, may take Partridges or Pheasants in his own land, by 7 *Jac.* 11.

Any Justice of Peace may examine the offences about Hawking or Hunting with Spaniels in corn, &c. and may bind over the offenders with good Sureties, and witnesses to appear at the next Quarter Sessions, and on refusall send to Gaol, upon 23. *Eliz.* 10. & 7 *Jac.* 11. *Dalt. J. P. ch.* 25. About Hawking. Bind over. Cómitment.

And so upon proof of two witnesses he may take a Recognizance of such as take Patridges with setting dogges or nets, upon 7 *Jac.* But there must be two Justices of Peace that must within six months of the offence, commit to Gaole a month without Baile, unlesse hee forthwith pay forty shillings a time, and twenty shillings a Pheasant or Partridge, him that by confession or oath of two witnesses, is proved to hawk or hunt betweene the first of *July* and last of *August*, 7 *Jac.* 11. So they may punish them that sell, or buy to sell againe, any Deer, Hare, Pheasant, or Partridge, upon 1 *Jac.* 27. 21 *Jac.* 28. So there must be two upon confession, or oath of one witnesse to send to Gaol for three months without bail, unlesse he pay forthwith to the Church wardens or overseers of the poor, twenty shillings a Pheasant, or Partridge, him that takes, kils or destroyes any Pheasant Recognizance. Cómitment. Cómitment.

Cap. 44. sant or partridg, with setting Dogs, Nets, or other Engines. Yet one Justice may take a Recognizance of twenty pounds of such an offender, that he shall not offend again, 7. *Jac.* 11. He that is punished upon this Law, must not be punished by any other *Statute*.

About hunting. Warrant. Bind over. Commitment.

Any one Justice of Peace upon information that any one hath hunted Deere or Conies in the night disguised, may send his Warrant to the Sheriffe, or other Officer, to bring them before him to be examined. And finding cause, may bind him to the Good Behaviour. But there must bee two Justices of peace to commit to Gaole them that race and kill Hares, upon 1. *Jac.* 27. *Dalt. J.P. ch.* 29.

Sect. 24. About fish dayes, Search.

Every Justice of peace in the Lent time, may enter into and search all Victualing-houses for flesh: and if he find any till three dayes before Easter, seize it, and give it to the prisoners, or poor, at his discretion, 1 *Jac.* 29. 5. *Eliz.* 5. 35. *Eliz.* 7.

Sect. 25. About an Egyptian.

Any Justice of peace, Sheriff, and Escheator, may seize all the goods of any out-landish person, calling himselfe an Egyptian, within one moneth after his arrivall into this Realm, and keep halfe to his own use, and for the rest must account to the Exchequer. But after the moneth, the King will have all, 22. H. 8. 10. But some doubt of this Law, and See *Dalt. J.P. ch.* 19.

Recognizances. Supersedeas.

Recognizances must be certified the next Assizes or Sessions, 5 & 6. *Ed.* 6. 25.

A *Supersedeas* out of the Chancery is to bee certified at the Sessions, together with the Recognizance for the peace. If the *Supersedeas* do testifie that he hath found Sureties in the Chan-

Chancery only to a certain day, which day is after those Sessions, if the *Supersedeas* come to his hands after the Recognizance taken, *Dalt. J.P.f.*173. Cap. 44.

The power of Justices in some places, see in *Daltons I.P.chap.*66.

Any two Justices of Peace may take the Engagement of any one, offering to give it; thus. About taking the Engagement.

I do declare and promise, that I will be true and faithfull to the Common-Wealth of England, as it is now established, without a King or House of Lords.

And this, setting down the day of the taking of it, they must certifie to the high Sheriff of the County, within one month after the taking thereof. *Act.*20.*Ian.*1649.

Any one Justice of Peace may take the oath of any man robbed near him, whether he know any of the parties that robbed him. And if he do, bind the party in a Recognizance effectually to prosecute him. *Stat.*27.*Eliz.*14. In taking the Oath of one robbed.

When a Recovery is had against a Hundred, and execution made on some persons therein, any two Justices lying near the place, *Quorum unus*, may set a rate upon the parishes of the whole Hundred, as wel within as without Liberties, upon the distribution thereof by the Constables on every Inhabitant, force the levying and bringing in thereof to them by distresse and sale of goods, to be done by the Constables and Justices, having received it, they are to see that the parties grieved have it. Set a Rate to have a contribution for any of the Hundred charged with the whole execution.

So

Cap. 45. So also they may do upon another Hundred where it is charged with a moity of such a charge upon a Hundred for any defect or neglect of pursuit of hue and cry, &c. towards the case of the Hundred, first charged. 27. *Eliz.* 13.

CHAP. XLV.

Of Recognizances.

The power and duty of Iustices of peace here, in out of Sessions.

AS touching this point of Recognizances, these things are to be known. 1. Justices of Peace do in some cases take Recognizances in congruity to other things, as for the Peace, and good behaviour, and the like. And they have power given to them by divers Statutes to bind over men to appear at Sessions, Assizes, &c. and to take sureties for other causes. And some think, where they have power to require a man to do a thing, they may in congruity bind the party to do it, and if he refuse, send him to Gaol. *Dal. J. P. c.* 16.

Bind over.

2. One Justice of the Peace may take Recognizances for the Peace or good Behaviour, for mens appearing at the Assizes, Sessions, &c. to give Evidence, of such as keep or use unlawfull games, that they shall do so no more: of such as are suspect to use Logwood in Dying, and their witnesses: Of such as take Partridges, and Hawkers in Corne, that they shall appeare at Quarter Sessions: Of such as are convict for taking or killing of Pheasants, Partridges, &c. that they shall do so no more: Of the Master that

shall

shall abuse his Apprentice, to appear at Quarter Sessions. Cap. 45.

But there must be two to take Recognizances of Ale-house-keepers: to bail a prisoner bailable for Felony: to bind Over-seers of cloth: to bind the defendant in a suit for Tithes.

3. Justices of Peace (as it seems) cannot bind over an offender against a penall Law, referred to their conusance (but not within the commission of the Peace, nor committed to the power of any Justice of Peace) except it be in a speciall case, where the Statute it selfe doth enable them thereunto, as 25 *Ed.*3.6 5 *Eliz.*4. 1 H.7.4. 1 *Ed.*6.1. Bind over.

4 A Supersedeas made by a Justice of Peace and returned under his seal, is a sufficient record to prove a Recognizance taken for the Peace, and warrant to call the party bound, and if he make the default, record the same. *Lamb. J.P.*97. Recognizance.

5. If one be bound by a Recognizance, he must appear according to the tenor of the same; and if a Certiorari come to remove it before the day, this will discharge it. *Dalt. J.P.*237. *Lam. J.P.*336.386. Apparance.

CHAP. XLVI.

Of a Supersedeas.

THis Writ is a command, to stay the doing of that which in appearance were to be done, were it not for the cause whereupon the writ is granted. As if one swear and desire the Peace, the Justice cannot deny it; but The Office and duty of Justices of Peace herein out of quarter Sessions.

Cap. 46. but if the party be formerly bound elſewhere, this writ lieth to ſtay the Juſtice from binding the party. And it comes either from the Chancery, or Kings Bench, or from one or more Juſtices of Peace.

2. No *Superſedeas* that comes out of the upper Bench, or Chancery, is to be allowed by the Juſtices of Peace, but what is granted upon publick motion in the Court whence it iſſues; and good bail there given; See 21 *Jac.* 8: And unleſſe it appear that the Proceſſe is proſecuted againſt the deſirer of the *Superſedeas*, *bona fide*, by ſome grieved in the Court, whence it is to come.

Motion in Court.

Bail.

3 He that doth take ſureties, *ex officio*, after a Warrant out, and thereupon gant a *Superſedeas*, muſt be ſure he do it according to the Juſtice of peace his warrant ſent out. *Lamb. Juſt. P.* 96. *Dalt. Juſt. P.* 172. Where he hath taken Sureties of the peace or good behaviour, either of his own authority, or a man brought to him by the warrant of another Juſtice of peace, he may grant this warrant to all other Juſtices of peace, ſhewing that he hath given ſureties, &c.

4 Albeit it be good to recite the ſureties names, and the ſum wherein he is bound, yet this is not neceſſary, 2 H. 7. 1.

5 If any officer have any warrant from a Juſtice of peace to arreſt a man to find ſureties, and ſhall receive this from the upper Bench, Chancery, or any Juſtice of the Kings Bench, or Juſtice of peace of the County, and yet he urge the party to finde the ſureties, he may refuſe to give it, and if he arreſt him, have falſe impriſonment.

Falſe impriſonment.

6 This

6 This doth diſcharge the Juſtice of peace warrant to require ſurety of the peace, or good behaviour. If therefore the Juſtice receive ſuch command from above, and he have not ſent his warrant, he muſt forbear to ſend it; if he have ſent it, he muſt ſupercede it. Cap. 46.

7 If a Juſtice or other officer will not forbear after they have received it from *C*hancery or upper Bench, he may be fined and impriſoned for his contempt: Yea ſo it is, albeit the *ſuperſedeas* be illegall, *Dal. J. P. f.* 207, 208.

8 If it be ſent to the Juſtices and Sheriff, the Juſtice may keep the Writs and deliver the Label to the Sheriff.

An *Alias Capias*, or *Exigent* awarded againſt one indicted of a treſpaſſe, or the like, upon ſurety found in the *C*hancery, may be ſtayed from thence, or the Sheriffe commanded not to arreſt him; or if he be arreſted, to take ſureties of him, and let him go. So when he hath given ſureties *de fine aſſidendo*, Two Juſtices, *Quorum unus*, (ſome ſay one Juſtice) may grant a *Superſedeas*. *Lamb. I. P.* 526, 527.

10 The *Certiorari* to remove the record, is in it ſelfa *Superſedeas*, but a man may have a *Superſedeas* to the Sheriff alſo. *Lamb. I. P.* 515. Certiorari.

CHAP. XLVIII.

Of a Supplicavit.

The Office and duty of the Juſtices of peace herein out of Quarter Seſſions.

THIS writ is a command out of the Chancery or upper Bench, to one or more Juſtices of the Peace to binde ſome

Cap. 47. ſome perſon to the Peace or good Behaviour. For which ſee *Dalt.ſ.P.*226,227. And know theſe things.

1. He only to whom it is delivered muſt execute it.

2. The Juſtice that receiveth the Writ is to make his warrant to the Conſtable, or other indifferent perſon: and if he refuſe to find ſureties, to carry him to priſon.

Warrant.

Commitment.

3. The party attached muſt be bound before him that ſent out the warrant and none other.

4. The Juſtice is to execute it as it directeth.

5. If the ſumme be left to his diſcretion, it is good to ſet a good ſum.

6. After ſureties taken, the Juſtice may make a Superſedeas.

Superſedeas

7. The Juſtice need not return it, nor make a certificate till a *Cerciorari* come. *Dalt.ſ.P.*186 187.

CHAP. XLVIII.
Of a Mittimus.

The power and duty of the Juſtices of Peace out of Quar. Seſſions.

THe *Mittimus* is the warrant by which the priſoner is ſent to the Gaol, &c.

Touching which, theſe things are to be known.

1. This inſtrument muſt be in writing and under hand and ſeal. But if the commitment be by order of Seſſions, there needs no ſuch ſolemnities.

2. The names of the party committed, the time of making it, the cauſe of the commitment muſt be ſet downe and expreſſed in it, as for Trea-

Treaſon, Felony, ſuſpicion thereof, that it may appear whether the priſoner be bailable or not, and that thoſe that have the cuſtody of him may take care of him; for if the cauſe be ſet down to be Treaſon or Felony, it is ſo in the officer to ſuffer him willingly to eſcape, whether he be guilty or not; otherwiſe if no cauſe be expreſſed, it is no offence. Cap. 48. Officer. Eſcape.

3. If it be a commitment to the houſe of correction onely, the *Mittimus* muſt ſet down the cauſe, as *Quia otioſa*, or *quia inordinata Perſona*, or the like, *Cook 2 part of his Inſt. f. 52.*

4. If the commitment be without baile or mainpriſe, and by the cauſe expreſſed is bailable by Law, it ſeems other Juſtices of the Peace may bail him. *Dal. f. P. 351. 394, 387, 396, 392* Bail.

CHAP. XLIX.

Of the conviction and Trial of Offenders.

IN this theſe things are to be known. 1. An offender may be attaint or convict many ways. The Attainder or conviction by the common law is for the moſt part by indictment and a Jury, and cannot be otherwiſe. For Triall by examination, and witneſſes, are not allowed but where the Triall is referred to the diſcretion of the Juſtice of Peace, or the Statute doth eſpecially authorize him ſo to do, as it doth in many caſes; for by divers ſtatutes the conviction of an offender may be after divers wayes, and it muſt be according to the Statute, and cannot be otherwiſe. Sometimes it may be before one, ſometimes it cannot be before leſs than two Juſtices of

The power and duty of the Juſtices of Peace herein out of Quarter Seſſions. Indictment. Examination.

Cap. 49.

Sessions.

of Peace. Sometimes it may be out of any Sessions, sometimes it must be at a private Sessions, and sometimes it cannot be done any where but in the Quarter Sessions. Sometimes it is by the Justices own view or hearing, sometimes it cannot be done but by other proof. But where the Statute doth not direct the way, but say, Justices shall hear and determine, and say not how, or where, as 26*H.*6.10.5.*El.*9. There it must be by the ordinary way, which is by Indictment. And so it may be also, if the Justice please, where it may be done another way, *Dalt.J.P.*73.*f.*193

2. Some Statutes speak of conviction by inquiry, some by inquiry and examination: some say by inquiry or examination. In all these cases regularly the Justice of Peace is to examine the offenders and witnesses. *Dalt. J.P. fol.* 191. But if it be by examination only, as 4 *Ed.*4.2. Then it seems the offender is to be examined. *Young* 40. And so it seems may the witnesses also. 21.*Jac.*18. 18.*Eliz.*3.

3. Sometimes the Statutes speak of proof, and then it must be by proof of witnesses only. *Dalt. J.P.f* 191,192. Sometimes it is by examination and proof.

4. If the Statute say, by accusation generally, it must be by examination of witnesses upon oath. *Dal.J.P.f.*191,192.

5. Sometimes the Statute directs the Conviction to be by two witnesses, or confession: sometimes by witnesses or view, sometimes by view or hearing only, sometimes by two witnesses, view or confession; sometimes by view or indictment, sometimes by view or inquiry; sometimes by one witnesse, view, or confesion;

on; sometimes by one witnesse, or view, and after confession of an Offender by his owne Oath; sometimes by one witnesse, or confession; somtimes by view or information; somtimes by proofe of one witnesse; sometimes by proof of two witnesses; in all cases the direction of the Statute is to be followed. If the Statute speak of witnesses, it cannot be lesse then two (except the Triall be by Jury,) where happily one may serve, *Dalt. J.P.* 192. Cap. 50

It is convenient in all cases, especially where the conviction is by oath of witnesses alone, that the offender be heard before he be convicted. But this, it seems, is not necessary, *Dalt. J.P.* 191. See more in *ch.* 2. of this book.

Chap. L.

Cautions to Justices of Peace.

THey are to take care of their carriage; for they may bee punished as other man, and that in this Court of the Quarter Sessions also, 4 H. 7. 12. *Dalt. J.P. ch.* 20. especially in these particulars. Sessions.

1. Where they have power to hear and determine out of Sessions, by their own view, confession of the offender, or proofe of witnesses, these things must be heeded: 1. To make and keep by them a Record of all the proceedings, especially if there be a Commitment. Record.

2. If the offender be so bee fined, then to estreate it, and send it into the Exchequer, *Dalt. J.P. f.* 190. Estreat.

Cap. 50. Certificate of Recognizances.

3. They must returne all their Recognizances for the keeping of the peace, and otherwise, at the next Sessions of the peace for the County, 5. & 6. *Ed.* 6. 15. 3 *H* 7. 1.

Certificate of an oath of a Papist.

4. He that takes the oath and submission of a Priest or Jesuit within three dayes after his landing in *England*, and doth not certifie it in three moneths in Chancery, loseth 100 pound, by 27. *Eliz.* 2.

Riots. Concealment. Baile. Felons. Recognizances. Certificate Presentment

5. They must take heed of all neglects which are penall to them; as not to execute the Statutes against Riots and forcible Entries, upon notice; not to discover Treason, Seminaries, *Agnus Dei*, &c. to bail such as are not bailable, to discharge Felons, to take any Recognizances otherwise then in the Kings Name, not to certifie Recognizances at the next Assizes or Sessions, not to meet at Easter Sessions, not to certifie the examination of the Sheriffe, and his Bailiffs in entring plaints, &c. into the Exchequer, not to present at the next Quarter Sessions, the offences which the surveyors of the High-wayes have presented to them. *Dalt. J. P. ch.* 20 *fol.* 73. 11. *H* 7. 15. 13 *Eliz.* 2. 29 *Eliz.* 2.

He forfeits an hundred pounds if he be faulty in the execution of the Statute against Riots, 13. *H.* 4. 7. 17. R. 2. 8. And may be punished for neglect of that against forcible Entry. *Dalt. J. P. f.* 72. Twenty pound, if he certifie not the Juries fault, upon 19 *H.* 7. 13. Imprisonment, if he take a Recognizance in his own name. 33. *H.* 8. 38. Such fine as the Justices of Gaol-Delivery shall set down, if he take bail contrary to Law, or do not certifie the baile and the examination, 1 & 2 *P.* & *M.* 13. Five pounds, if he do

do not his duty for the poor, upon 14. *Eliz.* 5. Cap. 51.

And the Justices of Assize may punish the defaults of the Justices of Peace, 2 *R.* 3. 10.

CHAP. LI.

The Reward of Justices of Peace.

THey are by their Oaths to take nothing but of the State, and what is given them by the Statutes, which are their wages for their coming, and charges at Quarter Sessions, which the Sheriff is to pay them, by 14 *R.* 2. 11. 12 *R.* 2. 10. out of the Fines and Amercements, 5 *Eliz.* 4. And they are to have four shillings a day a piece, and their Clerks two shillings for this service. And they are to have five shillings a piece for every day, not exceeding three, they sit upon the execution of the Statute of Labourers, by 5 *Eli.* 4. They are to have the tenth of the forfeiture of him that doth offend against the Statutes by Deer-hayes, Buck-stals, and stalking, 3 *Ed.* 6. 2. The one half of the forfeiture of him that being by them appointed, refuseth to be an Overseer of Cloth, 39 *Eliz.* 20. And a third part of the faulty Cloth, upon 3 *Ed.* 6. 2. And the one halfe of the goods of an Egyptian seized by 22 *H.* 8. 10. Twelve pence upon the Inrolment of every deed of Land of forty shillings *per annum*; and two shillings six pence if the Land bee above forty shillings a year, 27 *H* 8. 16. Fees. Sheriff.

The State is to bear their charge in the execution of the Statutes of 13 *H.* 4. 7. 2 *H.* 5. 8. about Riots, and they are to receive it from the Sheriffe out of the Fines. *Dalt. J. P. f.* 141.

Cap. 51.

Forcible Entry.

The party grieved and prosecuted, is to bear their charges in execution of the Statutes of forcible Entry, of 8 *H.6.9.*

Pleading.

If they be sued for any thing done in the execution of their Office, they may plead the generall issue, and give the matter in evidence. And

Treble damages.

if they be quit, they shall have treble damages, 7 *Jac.5. Acts* 23. *Octob.*1650.

They cannot be sued for any thing done in their Office out of their County. 21 *Jac.*12.

Whatsoever they shall doe of record, or ignorantly and for want of knowledge, they shall not be punished for it: nor for matters by them judicially done. 2.*R.* 2.10.

This must bee understood in their Courts of Justice.

Speciall power of Justices in some Counties.

In *Norfolk* 27 *Eliz.*24.
In *Sussex.* 27 *Eliz.* 9.
In *Surrey* 27 *Eliz.* 9.
In *Kent* 27 *Eliz.*9.

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FINIS.

The second Part of

THE OFFICE

OF THE

Country Justice of Peace.

Wherein is plainly set down

Their POWER and DUTY

IN THE

SESSIONS.

The second Edition corrected and inlarged

BY

William Sheppard Esquire.

PSAL. 82. 1.

God standeth in the congregation of the mighty, he judgeth among the gods.

PROV. 21. 3.

To do Justice and Judgment is more acceptable to the Lord then Sacrifice.

LONDON,
Printed for *W. Lee*, *D. Pakeman*, and
G. Bedell. 1652.

The Chapters of the ſecond Book.

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The

The second part of the Office of the Countrey Justice of Peace.

Chap. I.

Of the Sessions.

THe Sessions is a Court where the Iustices of the Peace do sit for the execution of their office. Sessions what.

There are two kinds of Sessions; the general or Quarter Sessions, is that Court or sitting, wherein all the Iustices of the Peace do sit together, for the generall execution of their authority and commission over all their limits; these are called quarter Sessions, because they are kept quarterly, four times in the year, they are also called open Sessions, because they are kept in an open place; and principall Sessions, because herein the authority of the Iustice of Peace doth principally appear. The speciall or privy Sessions, which is a sitting procured upon some speciall occasion, not for the generall service of the commission, and commonly in a private way or place, for the more speedy execution of Iustice, in some speciall cases; as for the inquiry of riot, or forcible entry, placing of servants, or the like. It is called *Sect.* 1. How many kinds. General. Special. Riot.

Chap. 1. also a Statute Sessions, being enjoyned by certain Statutes, that they should meet at certain times in every Hundred, and that the Constables of the Hundred do come thither, and that Masters and Servants do appear, for the deciding of differences between them; for the rating of servants wages, and the bestowing of people that are fit to serve, and refuse, or cannot get Masters in service. And these are of speciall use, to deliver Goales of unruly servants, petty thieves and others, which get no good by lying there. But it is held if there be one Justice of the *Quorum* present, they may hear and determine any article within the commission of the peace at this Sessions, as well as at the Quarter Sessions, and accordingly they may give in charge what shall seem good to them; so also upon Statutes as give them a general power of inquiry without restraint to the Sessions, as that Statute of 25. of H. 8. 13. of sheep, and upon all Statutes that do use the word Sessions, indifferently without adding, generall or speciall, as 5. Edw. 6. c. 4. of fighting in a Churchyard or Church, 14. Hen. 8. ch. 11. 19. Hen. 7. c. 11. of hunting, 5. Eliz. ch. 13. of linnen cloth, 2. & 3. Ph. & M. ch. 7. of fairs and markets and others. But not of other Statutes whose inquiry is to be at the Quarter Sessions, 14. *H.* 7. 8. 37. *H.* 8. *c.* 7. 14. *H* 7. 8. 14. *H.* 6. *ch.* 4. 5. *Eliz. ch.* 4. *Lam. ch.* 19. 20. It seems therefore to be a more apt division, thus; The Sessions is either open, or private: The open, is either generall, as Quarter Sessions; or Speciall, as other Sessions at other times. The private, is that which is done in a private way, for some particular service. Or thus, Sessions is either Generall; for all the work of Justices

servants.

Goale Delivery Quorum.

Juſtices of P. in generall. Special, *i.* for ſome eſpe- **Chap. 1.**
ciall ſervices; or particular, *i.* for ſome particular work.

The generall Seſſions of the peace muſt be held four times a year at leaſt, (more if need be) at the times it is uſually held, once in every quarter, (to wit) *Sect. 2.* The time.

In the firſt week after
- St. *Michael.*
- The *Epiphany.*
- The clauſe of *Eaſter.*
- The tranſlation of St. *Thomas the Martyr*, being the ſeventh of *July.*

It is *Daltons* opinion, that the weeks wherein the feaſts happen muſt be firſt ended before the Seſſions can begin. But herein it is ſafeſt to follow the cuſtome of the place, *Dalt.* juſt. of the Peace. 16. And thus it muſt be holden through the Realm. And it cannot well be kept at any other time; the Juſtices were bound by their oaths to keep at this time, but this clauſe is now omitted, it may be continued, one, two, or three daies, or more, as there is occaſion of buſineſſe to diſpatch; for the time of keeping the Seſſions for labourers, it may be twice a year, between *Michaelmas* and Chriſts *Nativity*, and between the Annunciation of the Virgin *Mary*, and the Nativity of S. *John Baptiſt.* But any other ſpeciall Seſſions may be holden at any time when pleaſe the Juſtices to appoint. 33. *H.* 8. 12. *R.* 2. 10. *ch.* 10. 37. *H.* 8. *ch.* 7. 2. *H.* 5. *ch.* 4. *Lamb.* 597. 623. 36. *Ed.* 3. *ch.* 12. 14. *H.* 6. *ch.* 4. 3. If the Seſſions be held at any other time, it ſeems their acts are good, and the Juſtices only puniſhable, for the Statutes are not in the negative, (and not at any

Chap. 2. other time) it ought not to be done, but done is of force.

Sect. 3. The place. It ſeems it may be kept in any place of the County, the moſt apt place is the moſt eminent place of the County, the principall and chiefe Towns, and where it hath been uſed to be held, ſee the Statute of 14. *H.* 6. *ch.* 3.

CHAP. II.

Of the Judges there which be Juſtices of Peace.

Sect. 1. The Judges in theſe Courts. THe Judges in the Generall or Quarter Seſſions, and in the ſpeciall or particular Seſſions are the ſame, being the Juſtices of the Peace of the County, who are appointed by the Commiſsion to attend the peace of their County: And amongſt theſe ſome are for ſpeciall reſpects made of the *Quorum*, becauſe ſome buſineſſe of importance may not be done without the preſence, or aſſent of them, or one of them. They are ſo called, becauſe the Commiſsion is thus, Of which *A. B. C.* we will to be one. And the moſt eminent man amongſt theſe, is commonly the *Cuſtos Rotulorum* that keepeth all the Records. Theſe are all of them Judges of Record, and have a judiciall power: and therefore cannot depute any under them to execute their office. And the Acts done before them are Records, againſt the truth whereof no Averment lieth. For in ſome caſes it is of greater credit then any Preſentment by a Grand Jury, and it is not Traverſable. This Record, ſitting the Court, is in the breaſt of the Judge, and

Quorum.

Records.

and amendable; but after it is entred in the Rols, it is not to be altered. And hence it is that a *Superſedeas* of the peace, made by one Juſtice of Peace under his ſeal, brought into the Court, is a ſufficient record, to prove that there is a recognizance of the peace taken by the ſame Juſtice of peace, and warrant enough to call the party bound thereupon, and if he make default to record it. *Lamb.* 1. *Book ch.* 13. Chap. 2. Superſedeas. Recognizance.

The generall Seſsions cannot be kept with leſſe then two Iuſtices of the peace, and one of theſe muſt be of the *Quorum*. And in caſes where more then two are neceſſary, to do any thing out of Seſsions, there it cannot be done by fewer in the Seſsions. And albeit one may do many things out of Seſsions, yet the ſame thing may not be done at the Quarter Seſsions with fewer then two Iuſtices of the peace, and one of them of the *Quorum*. But the ſpeciall or particular Seſsions may be kept by one or more Iuſtices of peace, according to the nature of the work there done, for as to the execution of all their power given them by their Commiſsion, and all ſuch Acts of Parliament, as require two Iuſtices of Peace, *Quorum unus*, there they muſt have two ſuch Iuſtices. But where power is given to two other Iuſtices of peace, as to ſend to the houſe of correction ſuch as will not work, or the like; or to one Iuſtice of peace, as in a forcible entry, or the like; there the Seſsions may be kept by ſuch Iuſtices of peace, and is good for theſe Acts. And in theſe Courts their power is joynt, yet ſo, that if one alone ſee a Riot, he alone may record it, and impriſon the party. *Fitz.* Iuſt. of Peace. 8. Quorum. Iuſtices.

CHAP.

Chap. III.

Of the persons over whom they have power.

Sect. 1. Over what persons their power is to be exercised Justice of Peace.

THeir power is over all persons within their County. They have some power also one over another, for a Justice of Peace of the Country may be indicted in this Court, as another man for any offence here triable. But one Justice cannot Amerce another for absence, as the Justices of Assize may do, nor can one of them imprison another, for any abuse offered to him, for *Inter pares non est potestas. Lamb. fo.* 385.

Chap. IV.

Of the place of their power.

Sect. 2. In what place their power is to be exercised.

THe power of these Judges in the Sessions, and out of the Sessions, is to be exercised in their own proper County only, and not elsewhere. Therefore they are not to intermeddle in others Countries, nor in any City which is a County it self, where there be speciall Justices of Peace for the place, nor in those places within the County where they have a Charter, and therein a speciall prohibition to the Justices of the County, that they meddle not there, and Justices are appointed for the place. And yet perhaps, in this last case the acts that such Justices do there may be good, but they may be subject to punishment for the doing thereof. But they may intermeddle in all Corporate Townes, Liberties, and Franchises

chiſes within the County, which have return of Writs, but no proper Juſtices of peace. And if a place lie within two Counties, or part in one County, and part in a City, and each may intermeddle with their own part; So that if a houſe holden by force be within two Counties, and when the Juſtice of Peace of one County comes, the force is removed into that part which is in the other County, he can do nothing, 14. *Eliz.* 5. 5. *Eliz.* 4. 39. *Eliz.* 4. 43. *Eliz.* 3. *Dalt. ſ. P. ſ.* 27. 117. *Lamb. ſ. P.* 92. Chap. 4.

The Juſtices in their County, cannot puniſh an offence done in another County, on a penal law, but in ſome ſpeciall caſes where the law gives them power ſo to do, as in the caſes of Guns, Partridges, 1 *Jac.* 7. *Jac.* 5. *Eliz.* 4. when the Statutes give power to puniſh where the offender ſhall be taken, and 22. *H.* 8. 5. for repairation of Bridges, where a Bridg is in decay, and he that ſhould repair it, lives out of the County, in this caſe they may proceed againſt him, as if he lived in the ſame County, or that it be for matters of felony, or the Peace, or the like. *Seſſ.* 3. Acts out the County.

Juſtices of the Peace living out of their own County, cannot there exerciſe any Judiciall act of their Juriſdiction, as take oaths, examinations, or Recognizances, make warrants, or the like, nor can they cauſe offenders to be thither brought before them, out of the County, but ſuch Acts ſo done, are void. But it is held, that he may do any miniſteriall act, as take the oath of one that is robbed, or the like, as well without as within his County, and they are good. So *in Hellyers Caſe.* 7. *Car. B. R. Per Curiam.*

CHAP.

Chap. V.

Of the Power of the Justices of Peace in the Quarter Sessions.

Sect. 1. The power and duty of the Justices of Peace in the quarter sessions, and what may be done there.

ALl the power of the Justices of Peace, is derived unto them two waies; 1. By the Commission of the Peace; 2. By divers Acts of Parliament. By both which they have a power or Iurisdiction, and a power of Correction, and all the power which the Ancient Conservators of the Peace had, and much more. They are to labour to keep the Peace, withhold men from, and suppresse injurious force and violence against mens persons, goods, or possessions, restrain offenders, riotters, and all other barretors. And for their duty in the Quarter Sessions, in general all this is to be known, That all that they may do out of the Sessions, or at any other Sessions, they may do at this Sessions, and much more, for every Quarter Sessions, is a Sesions, though every other Sesions be not a quarter Sesions. *See therefore Infra*, what may be done by speciall Sesions, or out of Sesions. Herein they may and must endeavour to keep the Peace and all the Ordinances and Statutes made for the conservation thereof, and for the quiet government of the people, hear and determine at the keepers of the Liberties suit, all trespasses against the peace, and many felonies, and inflict punishment according to law, pursue, take, arrest, and chastise offenders, Riotors and all other Barretors, according to their offence, the laws, and their own discretion; take sureties of the Peace of them that break the peace,

Peace breakers. Riotors. Felons.

and

and good behaviour of them that be not of good fame, or that they suspect. So they may, and must see, the Statutes for hue and cry after felons, against murtherers, robbers, felons, night-walkers, affrayers, those that wear armour *in terrorem*, that make Riots, forcible entries, Robberies, that are come from beyond Sea, and wander about, and live idly here, and all the Statutes against force and violence, against the peace, put in execution. And in cases where they do suspect, they may arrest, examine, and if they see cause, imprison. *See Commission of the Peace*, 18. *Ed.* 2. *Stat.* 2. *ch.* 2. 1 *Ed.* 3. 15. 34. *Ed.* 3. 1. 4. *H.* 7. 12. 33. *H.* 8. 10. 37. *H.* 8. 7. More particularly. Chap. 5. Surety of the Peace, or good behaviour.

First, they may enquire and take Indictments of all Treason, and misprision of Treason, but cannot proceed to hear and determine them. *Sect.* 2. Treason.

Secondly, they may in this Court hear and determin all felonies by the Common law, and some think that the Iustices in this Court may determine any felony, great or small, and deliver the Goale of all felons. But this is much doubted by others, and held that they cannot deliver suspected persons by Proclamation; For if an Indictment be against a man for any thing above petit Larceny, and the Grand Iury find an *Ignoramus*, upon it the Sessions cannot deliver him. *Resolved by the Iudges temp. Car. Reg.* 2. but they must bind him over to the Assizes, there to be acquitted, *Fitz. J.* P. 14. The most common practise therefore is, that all the prisoners that are in question for any felony above petit Larceny, are referred to the Goale delivery, for albeit it be out of question, that for such felonies as are Felonies.

so

Chap. 5. so by the common law, and by any statute, the Justices of Peace in this Court have power to hear and determine, as such as are turned over by Sheriffs out of their turn; and others, that in strictnesse they may hear and determine it, yet this is not usuall, 1. *Ed.* 4. 2. But there are some felonies, as upon 3. *H.* 7. 18. 33. *H.* 6. 1. And the 8. *H.* 6. 12. for imbesilling. Record, and 5. *Eliz.* 4. for forging of Deeds, that they have not to do with in this Court. So where one is smitten, or take goods in one County and die, or carry the goods into another County, or is indicted as an Accessary to a principal in another County, in these cases and such like, as where there is an indictment taken before any other, they cannot hear and determine these felonies, for they are Justices only of this County, and can try Indictments only taken before themselves. And if Indictments be taken before them of such things, as whereof they have not conusance, they are void, *Dalt. Just. P.* 65.

Sect. 3. Trespasses. Thirdly, they may hear and determine all trespasses against the publike peace.

Fourthly, they may enquire by Jury of all offences against the common, or Statute law, belonging to their conusance.

Fifthly, they may take view of all presentments and Indictments, made or found by the Jury.

Sixthly, they may grant out processe against the offenders, to cause them to come in to answer.

Seventhly, they may take and try such offenders upon any former or present Indictment or Presentment, before themselves, or any other Justices of Peace there after the offenders do appear.

Eighthly,

Eighthly, they may upon conviction give Judgment of fine, Amercement, or otherwise, as the cause deserves, and inflict punishment, and see execution done according to the lawes. And all this they may do in their other Sessions. Chap 5.

Ninthly, and they may in this Court also hear and determine all offences, which by any Statute law are referred to their determination. And here it is to be observed, that many Statutes give the Justices of Peace power to do some things in their Quarter Sessions, which they do not give them power to do in their Speciall or private Sessions. For when a Statute gives them power to hear and determine, and doth not say where, nor how, or gives them power to do it in their Sessions, and saith not what Sessions, there it may be done at any Sessions. But where a Statute gives power to the Quarter Sessions, as 32. *H.* 8. 13. about horses, 43. *Eliz.* 3. about poor, 5. & 6. *Ed.* 6. 25. about the enquiry of the breach of a Recognizance, 4. *Jac.* 5. about drunkenness, 5. & 6. *Ed.* 6. 21. *Jac.* 22. about ingrossing, 1. *Ed.* 6. 1. about sending a Writ to the Bishop, and many others. Or to the Generall Quarter Sessions, as 5. *Eliz.* 9. about Perjury, 4. *Jac.* 5. about drunkennesse, ordinance for the *Directory* and others; or to the generall Sessions, as 2. & 3. *Pb.* & *M.* 3. about kine and calves. Ordinance for the directory, 4. *H.* 8. 7. about Searchers of Pewter, 33. *H.* 8. 1. about cheating by false tokens, &c. 1 *Jac.* 6. about rating wages, 39. *Eliz.* 17. about Souldiers, 39. *Eliz.* 11. about Logwood, 4. *H.* 8. 7. about Pewter and Brasse. See 22. *H.* 8. 5. about repairing of Bridges, in these cases the private Sessions cannot meddle with it. So also it seems where

Quarter Sessions. *Sect.* 4.
About horses.
Poor.
Recognizance
Drunkennesse.
Ingrossing Writ.
Perjury.
Drunkennesse.
Directory.
Kine.
Directory.
Searchers of pewter.
False tokens.
Wages.
Souldiers.
Logwood.
Pewter and Brasse.
Bridges.

it

Chap. 5. it is ordinary Sessions, as 4. *Fac.* 5. about drun-
Drunkenness. kennesse. But for the opening of these things more fully, these things are to be known, That the Justices of the Peace in the Quarter Sessions are enabled to do many things by divers Acts of
See after Chap. 9 Parliament, which must be pursued, as in these particulars following.

Sect. 2. 1. They may in this Court enquire of all the
About Recusants and Papists maintaining the authority of the Pope. offences against the Statute of 5. *Eliz.* 1. about the maintaining of the authority of the Pope, and then they must certifie the presentment taken before them into the upper Bench within 40. daies, if it be Term time, or the first day of the next Term *Subpena* one hundred pound, and this cannot be in another Sessions.

2. They may here hear and determine all offences, except Treason, and misprision of Treason, against 23. *Eliz.* for retaining the subjects in their due obedience.

Warrant to take away Arms 3. Four of the Judges of this Court, in the Court may give warrant to take away from the Recusant all his armour, Gunpowder and munition, other then necessary weapons for their de-
Commitment. fence, and to place and maintain them elsewhere at their charge. And if they refuse to deliver them, or oppose it, they forfeit them, and may be imprisoned three moneths without bail by these Judges from this Court. 3. *Fac.* 5. 6. Give the forfeiture due from a Popish Recusant to him that sueth for it in this Court. 3 *Fac.* 4.

They have also herein a power in divers other particulars by divers Statutes, which we will lay down in the next place all together.

CHAP.

CHAP. VI.

Of their powers in particular.

THEY may by Order at this Sessions, if they see cause, forbid the Transportation of Corne beyond Seas, after the Justices of Assize and others having authority to doe it have first permitted it. 13. *Eliz.* 13. which they cannot do in the private Sessions. *Sect. 1.* About transportation of corn.

They may at this Sessions, and not at a private Sessions, upon a motion, make an Order to two of the Justices of the Peace, not being of Kin, allyance, councell, or free to either party to set out a fourth part of the Soyle, wherein another hath wood which he intends to cut down, the same being to be set out before the wood is to be cut. 35. *H.* 8. 17. 13. *Eliz.* 25. *Sect. 2.* About the division of a wood Orders.

At this Sessions held next after Michaelmas the *Custos Rotulorum*, or two of the eldest Justices of the *Quorum* must appoint the two that are to oversee and controll the Sheriffes and his under Officers Books of Amercements, and this cannot be done at any other Sessions of the Iustices of Peace. 11. *H.* 7. 15. *Sect. 3.* About oversight of the Sheriffs Books.

At the quarter Sessions after Easter the Justices of Peace are to set down the prices of all Vessells of Ale, Sope and Beer that shall be made and sold out of all Cities and Corporate Townes, 23. *H.* 8. 4. 8. *Eliz.* 9. *Dalt. I. P.* fol. 184. which cannot be done at their speciall Sessions. *Sect. 4.* About the Assessement of the prices of Vessels

Chap. 6.

Sect. 6. About users of Logwood. Fine. Pillorie.

In this court, and not at any speciall Seſſions, the Juſtices of Peace may puniſh by fine of 20. l. and Pillory the deceiptfull uſers of Logwood, upon 39. *Eliz.* 11. And he is to be ſet in the Pillory in the Market Town, where the offence was done; or if it be out of a Market Town, then in the next Market Town, there to be all Market time, one or more dayes as the Juſtices think fit.

Sect. 7. About converting of Barley into Malt. Order.

In this court and not in any other Seſſions, they may and muſt reſtrain, ſuppreſſe or diſcharge the ſuperfluous number of Maltſters in part or in all by 39. *Eliz.* 16. And alſo reſtrain ſuch as they think fit to be reſtrained from buying of Barley to convert into Malt in part or in all for ſuch time as they ſhall think fit; which if they obey not, any two Juſtices of Peace may puniſh out of Seſſions.

Sect. 8. About buying and ſelling of butter and cheeſe.

Here and not in the other Seſſions they may for a time forbid them that buy butter and cheeſe within their country under pain of the double value of the things upon 3. and 4. *Ed.* 6. 21. 21. *Iac.* 22.

Sect. 9. About Regrators, Foreſtallers, &c.

Foreſtallers, Regraters, Ingroſſers, Badgers, and Drovers are to be puniſhed, hereupon, 5. & 6. *Ed.* 6. 14. and 5. *Eliz.* 12. and this cannot be in the ſpeciall Seſſions. See *fol.*

Sect. 10. About Cloth.

The diſtribution of the penalties for want of weight, length, and meaſure of cloth, two parts to the poor, and one part to the overſeers and ſearchers, if it muſt be at any Seſſions, muſt be at the quarter Seſſions, by 21. *Iac.* 18. *Sed quære bien.* For much may be ſaid to prove that it may be done out of Seſſions.

Sect. 11. About making and ordering of officers ſearchers of Pewter.

Two ſearchers of Pewter and Braſſe upon 4. *H.* 8. 7. muſt be made by the Juſtices at this Seſſions

next

next after *Michaelmas*, and they may not be made at any other Seſſions. Chap. 6.

Treaſurers of the County ſtock for relief of the poor maimed ſouldiers and mariners, are to be choſen at this Quarter Seſſions next after Eaſter, and not elſwhere, of ſufficient men, for one year, by 43. *Eliz.* 3. So alſo the Treaſurers for the relief of the priſoners in the Kings Bench and Marſhalſy are to be choſen at the ſame Quarter Seſſions, and not elſwhere, of able men, for one year, upon 43. *Eliz.* 2. So Treaſurers for the relief of maimed ſouldiers, and the widows and orphans of ſouldiers, ſlain in the laſt wars, are to be choſen at any Quarter Seſſions, by the Ordinance of *May*, 1647. *Sect.* 12. Treaſurers of the County ſtock.

The Collector for the money for relief of the priſoners in the common Goale, is to be choſen by the Iuſtices in this Court, and not elſwhere, and may be longer then a year in his office, 14 *Eliz.* 5. *Sect.* 13. Collector of the money for the Goal

If any common Informer following his ſuit by Deputy and not in perſon, or by his Attorney, or if he compound with the offender before anſwer, or after, without licenſe of the Court, he muſt be puniſhed in this Court, and it cannot be at a private Seſſions, 18. *Eliz.* 5. *Sect.* 14. Common Informer.

So if any Clark that receives the information, do not ſet down the day, moneth, and year of exhibiting it, or not indorſe upon the proceſſe, the Informers name, and the Statute upon which he goes, 18. *Eliz.* 15. or make out proceſſe before this be done, the penalty of forty ſhillings is to be impoſed here, and if the Informer have his hand in this, or take reward without licenſe of one of the Courts at Weſtminſter or compound without licenſe, he is to be put *Sect.* 15. Clarks of Courts.

Chap. 6. in the Pillory two hours in a Market Town, made to pay ten pound fine, and put out of his office by this Court, and not any other Seſsions.

Pillory.
Fine.

Sect. 16. The officers which are made at this Court, and cannot be made by any other Seſsions, may not properly be puniſhed for their faults elſwhere, but are to be puniſhed at this Seſsions: But for other officers that are makeable, at either of the Seſsions, or are equally attendant to both, they may be puniſhed at either of the Seſsions.

Officers.

Sect. 17. The maſter of the houſe of correction is to be made by the Iuſtices of Peace at their quarter Seſsions, and not elſwhere; and he is to continue for longer then one year, 30. *Eliz.* 4. 7. *Jac.* 4.

Maſter of Bridewell.

As touching that which concerns the Iuſtices of Peace, theſe things are to be known.

1. That they may at this quarter Seſsions, and at no other Seſsions, take order, by building a new, or converting an old houſe, to prepare and erect one or more houſes of correction, in what place of the county they ſhall think fit.

Houſe of Correction.

2. They may there cauſe them to be aſſured on whom they pleaſe in truſt for this uſe. And this may be done without any Licenſe from the keepers of the Liberties, and may be incorporrted alſo if they pleaſe.

Licenſe.

3. They may alſo take order here to provide a ſtock of money and other neceſſaries as a backſide Mills, Turn cards, to ſet Rogues and others to work, for theſe houſes are to be houſes of work for the orderly, as well as places of puniſhment for the diſorderly.

Orders.

4. They may here ſet down orders from time

to

to time, for the government and ordering of the house-stock and persons in it, appoint and give allowance to Governors. Chap. 6.

5. They may here take order for the sending thither and punishing of Rogues, and other idle and disorderly persons, who are not to charge the country, but to live there by their labour. Rogues.

6. At this Court they may punish or remove the Governour, according to their discretion, for his neglect of his duty, 39. *Eliz.* 5. 4. 7. *Jac.* 4.

They are to certifie to the next quarter Sessions, and not elsewhere, all the Presentments of any Supravisors of highwaies brought in to them, 5. *Eliz.* 13. 18. *Eliz.* 9. And this cannot be at the other Sessions. And here the offenders are to be fined. *Sect.* 18. Highwaies. Presentment. Fine.

He that is bound by Recognizance for the good behaviour for seven years for unlawfull hunting, breaking of the head of Fishponds, or the like, upon his acknowledging of his offence, and giving satisfaction to the party wronged, in this quarter Sessions, may then and there, be discharged. And after this Sessions, he may be discharged at other Sessions. And if the offender at any open Sessions confesse his fault, and give satisfaction to the party grieved, he may release him within the seven years, 3. *Jac.* 13. 5. *Eliz.* 21. About Recognizances. Discharge. And suing of it.

The Justices of Peace may in this Court, by presentment, information, or otherwise, as they think fit, inquire whether Ale-house-keepers have done any act to forfeit their Recognizance, and if they have, send for them in by processe to shew why it should not be levied, and hear and *Sect.* 19. Ale-house keepers.

Chap. 6. determine the same according to their discretion, 5. & 6. Ed. 6. 25.

Sect. 20. About him that hunteth by night, &c. Fine.

The fine to be set upon him that hunteth disguised by night, and confesseth it upon examination, must be set at this Sessions, by 1. *H.* 7. 7. and cannot be set at the other Sessions of the Peace.

Sect. 21. About making rates, or rectifying of them.

The rating of wages for labourers and servants must be at the quarter Sessions after *Easter*, or within six weeks after, and cannot be at any other time, or in any other place, 5. *Eliz.* 4. 1. *Jac.* 6. 39. *Eliz.* 22. 1. *Jac.* 25. And at this Sessions they must examine how it is observed. Yet see 13. *R.* 2. 8.

For prisoners in the Kings Bench and Marshalsie.

In their quarter Sessions after *Easter*, and in no other place, nor at any other time, they may and must, for the relief of the prisoners in the Kings Bench and Marshalsie, rate all the parishes of the County weekly, as they think fit, so as no parish be under a half penny, and at or above six pence, and all the County together, but at two pence a parish weekly, and appoint Treasurers to receive it, and at the years end appoint new Treasurers, and call the old to account, and appoint how the surplusage of money shall be disposed. And these sums are to be rated upon the parishes by the Constables or Churchwardens, or in their default, by one Justice of Peace, 43. *Eliz.* 3. See.

And the Justices are here to set down how much shall be sent quarterly to the Kings Bench and Marshalsie, but it must not be lesse then twenty shillings a year to each of them. This money is to be levied and paid to the High Constable, who are to pay it at every quarter Sessions to the Treasurers.

They

Chap. 6.

They may here rate every parish in the Shire for the relief of the prisoners in the common Goal, as they think fit, so as they exceed not six pence, or eight pence a week upon a parish. And this being levied by the Churchwardens, and paid over to the High Constables, or head Officers of the place, they are to pay the same at this Sessions, to such as the Justices in this Sessions shall appoint to be there ready to receive it, 1 *Iac.* 25, 14. *Eliz.* 5. And this cannot be done at the other Sessions.

For prisoners in the common Goale.

They may, and must at the quarter Sessions after *Easter*, and not elsewhere, or otherwise rate the whole County, for the relief of maimed souldiers and Mariners, no parish above ten pence, nor under two pence weekly, and if there be above fifty parishes in the County, the whole rate must not exceed six pence a parish, 43. *Eliz.* 3. and they may at any quarter Sessions, set the like, or a greater rate, not above two shillings six pence, nor under two pence a week on a parish, on the County, for help of maimed souldiers, widows and orphans, of men slain in the last warre. And these moneys the Churchwardens and Constables of every parish must collect and pay to the High Constables ten daies before quarrer Sessions, and the High Constable to the Treasurers at the Sessions, 43. *Eliz.* 3. Ordinance of Parliament, *May* 1647. and *August* 1647.

For maimed souldiers, &c.

If a parish or hundred be not able to relieve their poor, the Justices at this Sessions, not at a petty Sessions, may rate any place within the County to be contributary, 43. *Eliz.* 2. And if the poor have parents, or grand parents, children, or grand children, that are able to relieve them, the

For the poor.

Chap. 6. Iuſtices may at this Seſsions compell them to contribute towards their relief, 43. *Eliz.* 2.

An over rate. If any be grieved by a rate made for the poor, or in any of the caſes before, he muſt be relieved here, and cannot be relieved elſwhere, 43. *Eliz.* 2. 14. *Eliz.* 5. 18. *Eliz.* 3. So of a rate made for the church, upon the Ordinance of 8. February, 1647.

For them that have the Plague The taxes made by two Iuſtices of Peace in the country for the relief of them that are ſick of the Plague, being ſent into this Seſsions (as they muſt be) may be there continued, enlarged, or extended to any other part of the county, as the Juſtices ſhall ſee cauſe, 1. *Jac.* 3.

Sect. 22. About aſsignment of Penſions The Aſsignment and Revocation of penſions, for ſouldiers maimed, old and new, and of the widows and orphans of ſouldiers, ſlain in the late wars, and Mariners, muſt be by the Juſtices at this Seſsions, and cannot be at any other Seſsions, and here they may ſet down, or alter as they ſee good. And here they may fine the Treaſurer if he refuſe to pay it, 1. *Jac.* 25. 43. *Eliz.* 3 Ordinance of *May* 1647. December 1647.

Sect. 23. About diſpoſall of the ſurplusage of Stock in the Treaſurers hands. The Juſtices may here diſpoſe of the ſurplus of the County ſtock to charitable uſes, according to the Statutes for the relief of the poor, and puniſhment of Rogues, 43. *Eliz.* 3.

Sect. 24. About the ordering of the poor, or Rogues. Settlement. The ordering of matters of the poor if any thing be amiſſe done by the Overſeers and Churchwardens, muſt be at this Seſsions. And therefore the removing and ſetling of poor, unleſſe they be Rogues, is to be done by order of this Seſsions. And here they may, as they do out of Seſsions (if they will) bind the poor children

children Apprentices, 43. *Eliz.* 2. But it seems the questions about Rogues may be determined at any Sessions, upon 39. *Eliz. Dals. Just. P.* 120. except dangerous Rogues, who are to be punished at this Sessions by a brand, with a hot Iron, &c. 39. *Eliz.* 4. 7. *Iac.* 4. But for the point of setling, see in the other point of the Iustice of Peace office, in Chap. 18. Chap. 6. Bind poor Apprentices. Rogues.

It must be by order of this Sessions, that the Churchwardens and Overseers of the poor, with consent of the Lord of the Mannour, may set up a Cottage on the waste ground there, 39. *Eliz.* 3. 43. *Eliz.* 2. and it cannot be done elsewhere. About setting up of a cottage. Poor.

They may at this Sessions license the selling of wine, in Towns that are not Corporate, and otherwise none may sell, but by special grant from the King, 7. *Ed.* 6. 5. And this cannot be at another Sessions. *Sess.* 24. About granting Licences for Wine.

A license to him that keepeth Hawks, to shoot hailshot in a birding piece or hand-gun, at Crow, Pye, Chough, Rook, Ringdove, or lesser bird for hawks meat only, must be had at this Sessions, 1 *Iac.* 27. not elswhere. For shooting.

Drovers of Cattell, Badgers, Laders, Kidders, Carriers, buyers and Transporters of corn grain Butter and Cheese must be licensed at the quarter Sessions, and cannot be licensed elswhere. And here it must be under the hands and seals of three Justices of Peace, *Quorum unus*, neer the place where the party hath dwelt three years before; nor may they so license retainers or household-servants, but householders, married men, and of thirty years old; nor may they give to them any license, for longer time then one year, from the date of it, which For drovers, &c.

Chap. 6. which must be at the Sessions, otherwise they are void. 3, *Ed.* 6. 14. 5. *Eliz.* 12. 13. *Eliz.* 13.

Sect. 25. About repairing of Bridges and High-wayes adjacent.

They may here if there be four, *Quorum unus*, present, hear and determine all nusances in Bridges in the Highwaies, and of the Highwaies 300. foot at the end of the Bridg, to the damage of the people, and make out such processe and pains upon Presentments, for the speedy amending thereof against them that ought to be charged, as the Judges of the Kings Bench use to do, or as they shall think fit to do, 22: *H.* 8. 5. For the better understanding whereof, these things are here to be laid down.

1. If the whole bridge be decayed it must be made again, &c. *Cook* 2. *part. Inst.* 701.

2. This Statute extendeth not to private bridges, to Mils, or the like, but only to common bridges in the Kings Highwaies, where every one hath, or may have passage, and the Indictment must be, that the publique and common bridge being in the common highway, upon the river or course of water, &c. *Cook* 2. *par. Inst.* 701.

3. This is to be understood of every Shire, where be four Iustices of Peace, *Quorum unus*, and of every Franchise City or Borough where there be four Iustices of Peace, *Quorum unus*, and where they keep a Generall Sessions of the peace for such Franchise City or Borrough. But for want thereof the Iustices of the Peace of the County shall enquire. But if any such place be a County and have not such Iustices, no other Iustices can do this, but it must be reformed according to the common Law.

4. The first branch extendeth only to such cases, as where there is some body in certain known

known to be charged with the reparation: Chap. 6.

5. Where it is not known what person or place ought to repair the bridges without the limits of Cities and Townes Corporate, shall be repaired by the inhabitants of the County, and such as are within their limits; and if the bridg be part within the one side, and part within the other side, each party must repair that which is within their own limits. *Idem Stat.* 22. *H.* 8. 5. for clearing of which branch know this.

First, that the persons charged by the word inhabitants are, Inhabitants.

1. Corporations and bodies Politick, and other persons resident in the place, or having lands there, *Quæ in propriis manibus & Sumptibus possident & habent*, though they dwell and be elsewhere.

2. An infant that hath house or land by descent or purchase, and the husband of a *Feme Covert*.

3. A man that only dwelleth, and hath a personall residence there, but no estate is not chargeable, for it must be such an inhabitant as is distrainable, *Cook idem.*

Sixthly, if it cannot be known by any proof, who ought to repair it, the grand Iury are to find the decay, and to conclude, and farther the Iurors foresaid present, that it is altogether unknown, what persons, what lands or tenements, or bodies Politique, the same bridge, or any part thereof, of right, or ancient custome ought to repair, or have used, and upon this, four Iustices of Peace are to proceed to assesse the County.

The Iustices may here order men bound over for not paying Rents, to be paid for repair of a Church, or Church duties, to pay the money *Sect.* 20. About repairing of a Church.

to

Chap. 7. to the Churchwardens of the place. Ord. 9. Feb. 1647.

They may here fine a Church-warden, or other perſon, bound to repair any Ile or Chancel, forty ſhillings, or above, that is, bound over to appear here, for diſobeying his order therein, and commit him to priſon till it be paid. Ord. 9. Feb. 1647.

About taking of an account. They may here call to an account Treaſurers for the ſouldiers money, by the Ordinance of Decemb. 1647.

Chap. VII.

Of their power in their ſpeciall Seſſions.

Sect. 1. The power and duty of the Iuſtices of Peace in the Speciall Seſſions, and what may be done there.

THis Speciall Seſſions is of ſpeciall uſe for the ridding of the Goal and other purpoſes, and the Juſtices of Peace herein may take as much, or as little buſineſſe upon them as they pleaſe, and are not bound to take upon them all the ſervice of the Commiſſion, as they are at the Quarter Seſſions. And they have (except it be in ſome ſpeciall caſes before noted) the ſame power in this Court which they have, and may do as much therein, as they can do at the Quarter Seſſions.

For firſt, all that any Juſtice of Peace may do out of Seſſions, they may much more do in this Seſſions, as puniſh Aleſellers, on 5 & 6. *Ed.* 6. 21. *Rogues.* 39. *Eliz.* 4. and the like, See 1. *Jac.* 6.

Sect. 2. Aleſellers. Rogues.

2. In this Court they may hear and determine upon all the Articles within the Commiſſion of the Peace, and that are offences at the common law,

law, *Lamb. fol.*624. as Felonies, Treſpaſſes, &c. Chap. 7.
See before, *Dalt. I. P.* 317.

3. In this Court the Judges have power of O- *Sect.* 3.
yer and Terminer, of all offences which any Act of Parliament doth give them power in general, of enquiring, puniſhing or hearing, and determination, or determination only, without directions to any Seſſions. Of this ſort are the offences againſt the Statutes of 25. *H.* 8. 13. about ſheep, 2. *H.*6. 14. about Gold Smiths, 8. *H.*5. 3. about Gilding, 17. *Ed.*4.4. about tyle, 13. *Rich.* 2.8. about victuallers, 21. *H.*6. 19. about Souldiers, 23. *Eliz.* 10. about killing of Pheſants, &c. 8. *Eliz.* 3. about tranſportation of ſheep, 1. *H.* 8. 7. about Coroners, 8. *H.*6. 5. 11. *H.* 7. 4. about weights and meaſures, 28. *H.*8. 14. about wines, 42. *Ed.*3. 9. 23. *H.*6. 10. 11. *H.* 7. 15. 27. *Eliz.* 7. about Sheriffs, 1. & 2. *Ph.* & *Ma.* 5. about tranſportation of Corn, and many others.

ſheep.
Goldſmith.
Gilding.
Tyle.
victuallers.
Souldiers
Pheſants.
Tranſportation of ſheep.
Coroners.
Weights and meaſures.
Wines.
Sheriffs.
Corn.

4. In this Court they have power alſo in all *Sect.* 4.
caſes where the Statute doth uſe the word Seſſions indifferently, without adding the word General or Special, as upon the Statute of 2. & 3. *Ed.* 6. 15. about conſpiracy of victuallers, 5. & 6. *Ed.* 6. 4. about fighting in a Churchyard, 5. *Eliz.* 5. about eating of fleſh fiſh daies, &c. 1. *Jac.* 22. about Tanners, 4. *Jac.* 4. about Brewers, 7. *Ed.* 6. 5. about Wines, 2. & 3. *Ph.* & *Ma.* 7. 31. *Eliz.* 12. about tolling for a Horſe in a Fair, *&c.* 1. *Eliz.* 17. about taking a fry of Fiſh, 19. *H.* 7. 11. about Hunting. 2. *&* 3. *Ed.* 6. 10. about deceiptfull Malt, moſt of the branches of 5. *Eliz.* 4. about Servants and Apprentices. 4. & 5. *Ph.* & *M.* about Souldiers, 2. *Ed.* 6. 6. 12. *Ed.* 4. 4. about Eſcheators. 5. *Eliz.* 21. about Fiſhing and Hunting:

Conſpiracy of victuallers.
Fighting in a Church-yard.
Fiſh daies.
Tanners.
Brewers.
Wines.
Tolling for a Horſe.
Fiſh.
Hunting.
Malt.
Servants.
Apprentices.
Souldiers.
Eſcheators.
Fiſhing.

Chap. 7. Hunting: 1 *Iac.* 27. 23. *Eliz.* 10. about killing wild Fowle, Hares, Pheſants, &c. 33. *H.* 8. 9. about unlawfull Games, 33. *H* 8. 13. about ſhooting in Guns, 1 *Ed.* 4. 2. about certificate of Indictments by the Sheriffe, about uſury, 37. *H.* 8. 9. 13. *Eliz.* 8. *Cum multis aliis.*

Hunting. Wild Fowle. Hares. Pheſants. Unlawfull Games. Guns. Certificate by the Sheriff. Uſury.

***Sect.* 5.** 5. So alſo it ſeems to be in ſuch caſes where the Statute appoints the thing to be done in open Seſsions, as in 5. *Eliz.* 4. about Servants, that aſſault their Maſters, *&c.* 5. *&* 6. *Ed.* 6. 25. about Alehouſes, 31. *Eliz.* 7. about cottages, 27. *Eliz.* 7. about Sheriffs, 39. *Eliz.* 16. about Malt, 3. *Iac.* 13. about diſcharge of the good behaviour. Where it is open quarter Seſsions, if open did intend the quarter, then quarter were idle and to no purpoſe. And ſee, 21. *Iac.* 22. the laſt cauſe, *Sed Quære.* And ſee generall quarter Seſsions in 43. *Eliz.* 2. and many others.

Servants. Alehouſes. Cottages. Sheriffs. Malt. Diſcharge of the good behaviour.

***Sect.* 6.** 6. In caſes where a Statute gives power of Oyer and Terminer of any offence in generall, this muſt be done at one of theſe Seſsions as is before, and cannot be done out of Seſsions. But where a Statute doth give a ſpeciall power, or power to do a ſpeciall thing, as to make a rate or the like, and ſaith not where, there it may be done, as well out of any Seſsions, as within or at the Seſſions, See 22. *H.* 8. 5. *Coo.* 2. part inſtit. 703. 704.

***Sect.* 7.** 7. In caſes where the Statute deſigneth the power to the Iuſtices, or appointeth the thing to be done in theſe words; at the quarter Seſsions, or generall quarter Seſsions, or generall Seſsions, or ordinary Seſsions, there the thing cannot be done at this Seſsions, but muſt be done at the quarter Seſsions, ſee before fol. 15. And ſo alſo it

ſeems,

ſeems, if it be principall Seſsions, as 4. *H.* 7. 12. And the Iuſtices of Peace in this Seſsions alſo have power in theſe particulars following. Chap. 7.

8. The Hoſtler or Inholder that maketh not horſ-bread ſufficient, and of due aſsiſe according to the price of corn may be puniſhed, as well here as as in the quarter Seſsions; for the firſt offence by fine, ſecond, impriſonment a moneth without Bail, third, Pillory without redemption, fourth to be forejudged the keeping of an Inne. 21. *Ia.* 21. *Sect.* 8. About making of Horſe bread.

9. He that diſturbeth a Preacher is to be bound to the good behaviour by the 1. *M.* 3. for one year. And this may be as well at this, as at the quarter Seſsions. And he that doth deſtroy a Fiſh-pond, ſteal Fiſh, &c. is to be bound for ſeven years. And this (it ſeems) is moſt properly to be done by 5. *Eliz.* 21. *Dalt. I. P.* 235. in a Seſsions of the Peace. And that may be done as well here, as in the quarter Seſsions. *Sect.* 9. About binding to the good behaviour. Diſturb a Preacher. Deſtroy fiſh.

10. Any queſtion about Rogues may be determined at this Seſsions upon 39. *Eliz. Dalt. I. P.* 120. except it be a dangerous Rogue, for he is to be puniſhed at the quarter Seſsions, 39. *Eliz.* 4. *Sect.* 10. About Rogues.

11. In this Court alſo the Iudges may receive the Indictments and Preſentments of felony taken before the Sheriffs in their turnes. And upon theſe they may proceed as upon Indictments originally brought before themſelves, 1 *Ed.* 4. 2. as they may in the quarter Seſsions. *Sect.* 11. About receipt of Indictments from the Sheriffs. Felony.

12. The Iuſtices of Peace of the County may according to their diſcretion ſet down the rates and prices of every ale brewer and beer brewer of the County ſhall have and take for every Barrell, Kilderdin, and Firkin of ale and beere. *Sect.* 12. About the prices of Ale and Beer.

And

Chap. 7. And he that takes more, forfeits ſix ſhillings a Barrell, three ſhillings four pence a Kilderkin, two ſhillings a Firkin: And this Aſſeſſement, though perhaps *rigore juris* it may be done out of Seſsions, yet it ſeems more proper to be done at a Seſſions, 23. *H.* 8. 4.

Sect. 13. About Alehouſes ſuppreſſed.

14. It ſeems Ale-houſes put down by two Juſtices cannot be allowed again by two others, nor otherwiſe but in this or the Quarter Seſsions: And there they may be licenſed *de novo*. And then they cannot be ſuppreſſed but at their Seſſions again, where they were licenſed, or the Quarter Seſsions, 5. & 6. *Ed.* 6. 25. *Dalt. I. P. f.* 35.

Licenſed de novo.

Sect. 14. About Recognizances of the peace of good behaviour, and diſcharge thereof.

15. This Surety may be taken here as it may be by Juſtices out of any Seſſions; but the proper place of diſcharging ſuch as are bound to the Peace or good behaviour, is in the Seſsions of the Peace. And the Juſtices cannot well do it out of the Seſsions. And this is alſo the proper place to get a diſcharge of other Recognizances, which things may be done as well here as in the quarter Seſſions.

Sect. 15. About the taking of a Preſentment.

16. In this Court the Judges may take the preſentment of ſearchers of Tyle, of defaults they find in making of tyle, upon 17. *Ed.* 4. 4. as well as in the quarter Seſsions.

Sect. 16. About the diſcharge of an Apprentice.

17. The diſcharge of an Apprentice from his Apprenticeſhip, may be at this Seſsions, by four Iuſtices of Peace, *Quorum unus* under hand and Seal by 5. *Eliz.* 4. And yet by the words of the Statutes though one Juſtice of Peace may allow the cauſe of putting away or departing of a Servant, yet the proof of the ſufficiency, or inſufficiency, of the cauſe for which the Maſter may

Putting away a Servant.

may put away his ſervant before the end of his Tearm, or at the end of his Tearm without warning, muſt be at the Seſſions, and therefore it ſeemeth reaſonable, this offence ſhould not be tryed elſewhere. And yet the puniſhment of him that doth aſſault his Maſter, *&c.* if it require more then a years impriſonment, may be here as well as in the quarter Seſſions. And almoſt all the offences againſt that Statute are puniſhable, as wel here as in the quarter Seſſions, 5. *Eliz.* 4. Chap. 7. About a ſervant abuſing his Maſter.

18. In this Court as in the quarter Seſſions, they may by their diſcretion upon complaint and by Bill, take and charge a ſecond Jury, whereof every one muſt have 40. s. in Lands yearly to enquire of the concealments of other Inqueſts taken before them, within or without Franchiſes, and before others of ſuch offences, as are enquirable and preſentable before Juſtices of the Peace. And being found to be done within a year before, they are to amerce them, according to their diſcretion, 3. *H.* 7. 1. *Sect.* 17. About the concealment of an Inqueſt.

19. It ſeems they may here, as well as at the quarter Seſſions, give remedy to the party grieved againſt a Witneſſe, that being ſerved to appear in any Court of Record, and doth make default by 5. *Eliz.* 9. *Sed Quære.* If in any Court of Record do not intend the four Courts at *Weſtminſter* only, as uſually by theſe words it is intended. *Cook. Rep.* *Sect.* 18. About a Witneſſe.

20. In this Court the Judges may puniſh the eating of fleſh upon Fiſhdaies without Licenſe, the not diſcloſing of it to an officer, the not having of a diſh of Sea fiſh with the diſh of fleſh by him that is licenſed, and the offences of buying of Herring of an Alien, tranſportation of things *Sect.* 19. About fiſh.

Chap. 7. in an aliens boat, and the importation of Wines from *France* in Aliens Ships against 5. *Eliz.* 5. as well as in the quarter Sessions.

Sect. 20. About a Certificate Recognizance forfeit.

21. If a Recognizance be forfeit by default of appearance, or otherwise the Justices of Peace may and must from this Court or the Quarter Sessions where it is, certifie the same with the cause of forfeiture into some of the Courts at *Westminster*, that from thence processe may go out against the party, *Dalt. Just. P.* 213. And this Court may do this also. A Recognizance must be certified, though it be released.

Sect. 20. About Officers.

22. The Justices of Peace may here in this Court, and in the quarter Sessions, both require, of all the ministeriall Officers that belong to the Court, as Sheriffe, Clerk of the Peace, Coroners, Constables, and Bailiffes of Hundreds, that attendance and service they owe, and punish their neglect, 27. *H.* 5. 8. *Young* 12. 14. *R.* 2. 5.

And if Sheriffes or their under Officers return Jurors without their additions, the punishment of them may be hereupon. 27. *Eliz.* 7.

Sect. 21. About restitution of stolen goods.

23. Restitution of stollen goods to him by whose industry the Felon is attainted, may be made by the Justices at this Sessions, as well as at the quarter Sessions; for a Felon may be attainted before them at this Sessions, as well as at the other, 21. *H.* 8. 11. *Cook second part of his Instit. fol.* 714. And though the goods have been sold in market overt, yet restitution shall be made; and this restitution it seems the Justices must make without enquiry of the fresh suit.

Sect. 22. About cloth.

24. This Court as well as the Quarter Sessions, may (it seems) hear and determine the offences of Clothiers in not setting their Seal to their

their cloth, ſelling or putting to ſale the cloth that ſhrinks to ſo much in wetting, by falſe dying of wool or cloth, by ſelling by falſe meaſures, uſing iron Cards and Pickards, preſſing cloth to be uſed here in this Realm, or *Irtland*, not marking the cloth with the letter E. crowned, by 3. & 4. *Ed.* 2. So the offences of overſeers of cloth in not taking upon them, or in not executing their Office, *the ſame.* Chap. 7.

So the deceits uſed in the ſtretching and otherwiſe abuſing of linnen cloth, may be puniſhed in this Court, or the quarter Seſſions upon 1. *El.* 12.

25. The taking of more then ten in the one Hundred, or aſsiſting in ſuch a Contract, upon 37. *H.* 8. & 13. *Eliz.* 8. is puniſhable in this as well as in the quarter Seſſions. But the taking above eight, and under ten in the hundred, or the procuring of ſuch a contract upon 21. *Jac.* 17. it ſeems is not puniſhable in either of theſe Courts, but elſwhere. *Sect.* 23. About Uſury.

26. If any perſon (except ſpirituall perſons) ſhall at one time, have of his own, or to his own uſe, to keep upon his own or other s Farmes, except it be upon his own inheritance, or that which one hath in Joynture by the courteſie, or in Dower above two thouſand ſheep (120. accounted to the hundred) beſides Lambs (to be reckoned of a year old and above, from the time of the fall, to midſummer following) exceept ſheep for the maintenance of his houſe, ſheep by Executorſhip, Marriage, or given by will to a child within age, he forfeits 3. s. 4. d. a ſheep. And if any take to Farme, or take an eſtate for life, years, or at will, by Indenture, or Copy, any more then *Sect.* 24. About keeping of ſheep or Farms.

Chap. 7. two houſes, holds, and Tenements of Husbandry, whereunto any Lands are belonging in any place whatſoever, nor may any man occupy ſuch, except he live in the Pariſh where they are, *Sub pœna* 3.s. 4.d. a week, ſo long as he ſhall occupy it, theſe offences may be heard and determined in this Court as well as in the Quarter Seſſions, 25.*H.*8.13.

Sect. 26. About Cottages and Inmates. 27. In this Court as well as in the Quarter Seſſions, the erecting and continuance of cottages, receipt, and keeping of Inmates may be puniſhed, 31.*Eliz.*7. For the better underſtanding of which Law theſe things are to be known. 1. If one convert that building that before this Statute was one houſe into two houſes, theſe are two cottages, and puniſhable by this Statute, for this is a continuing of Cottages. 2. If one build an old houſe upon a new foundation in the ſame quantity that the old was, this is not puniſhable, 3. If one build two diſtinct cottages together, the one upon the old foundation, the other upon the new; that which is built upon the old foundation is not puniſhable, but that which is built upon the new is. 4. If one build a new houſe upon an old and new foundation together, ſo that the entire houſe doth ſtand upon both together, this is a cottage puniſhable by this Statute, *Trin.* 8. *Car.B.R.* 5. The building of a fair houſe in the country by a rich man, not having four acres of Land to it, is a cottage *per Juſtice Jones Trin.* 13.*Car.in B.R.* But the placing of the poor is not in this Statute, *Reſolved of the Judges Temp.Car. Regis*, See 43. *Eliz.*2.

Sect. 27. About victuallers and rates of ſelling commodities. 28. If any Butcher, Fiſhmonger, Hoſtler, Baker, Brewer, or the like tradeſman, ſell their proviſion

viſion at unreaſonable prices, having reſpect to the prices in the places adjoyning, and the place from whence the commodity is fetched; he may be fined in this Court, or in the Quarter Seſſions for it to the double value, 13.*R.*2.8. 23.*Ed.*3.6. And it ſeems the Juſtices may ſet down rates for the ſale of commodities for proviſion, yet *ſee* 25.*H.*8.2. Chap. 7.

29. The prices of wine may be aſſeſſed by the Keepers of the Liberties Great Officer, and he that ſells for more, may be puniſhed by the 40.s. penalty here 28.*H.*8.14. So the Juſtices may here ſet down the rates of Veſſells of Ale and Beer, *See before; and* 23.*H.*8.4. *Sect.* 28. Wine. Aſſeſſments of prices.

30. If the occupiers of Land in the country do not their endeavour to deſtroy choughs, crows, and rooks, or refuſe to pay them that take them, they may be puniſhed here, upon 24.*H.*8.10. *Sect.* 29. About deſtroying of Crowes, &c.

31. The tranſportation of any Corn or Malt, butter, cheeſe, herring, or wood in ſhipping beyond Sea without licenſe, or the carrying of ſuch things to ſuch ſhipping to be tranſported, or the exceeding of a Licenſe herein, are puniſhable in this Court upon 1. *&* 2. *Ph. & Ma.* 3. *Sect.* 30. About tranſportation. Licenſe.

32. The delivery or receiving of live ſheep in any Ship to be tranſported out of the Realm, firſt offence loſſe of goods, and impriſonment a year without Bail, and loſſe of his left hand, ſecond offence Felony, this may be here executed at this Seſſions, by 8.*Eliz.*3.

In this Court as well as in the Quarter Seſſions the malitious ſtriking of any perſon with any weapon in any Church, or Churchyard, or the drawing of any weapon in that place, with intent ſo to do, may be puniſhed with the cutting off of *Sect.* 31. About fighting in the Church, &c.

Chap. 7. one ear, and if he have no ear, with burning; upon 5. & 6. *Ed.*6.4.

Sect. 32. About Suits INTER PARTES.

33. In some speciall cases they have power here to hear Suits between party and party; as on the Statute of 3.*H.*8. for levying of money for Knights of the Parliament, and the Statute of Labourers, 5.*Eliz.* 4. and for taking Fish, Deer, and Hawks, 5.*Eliz.* 21. which may be at any Sessions of the Peace.

It seems in all cases where direction and power is given by any Statute to sue for a penalty in any Court of Record within this Realm, as in any of the Keepers of the Liberties Courts, as in 1 *Ja.* 17. 18. 19. 24. 20. and divers others, it may be sued here; *Contra*, if it be in any of their Courts of Record at *Westminster*, as 1 *Jac.* 21. 10. 21. *H.*8. 5. and many others.

Sect. 32. About making of orders.

34. At this Sessions as well as at the quarter Sessions the Court may make such orders as they have been used to make according to Law, and they may annex a penalty, but how they may recover it, *quære*: for it seems there is no law for it, yet doubtlesse for any affront or contempt *in facie Curiæ* or offence in an officer of the Court, they may fine or imprison, for this power every Court of Record hath. And upon other orders made consonant to law and reason, perhaps they may punish disobedience, especially if it be joyned with contempt, by Indictment, binding to the good behaviour, or Attachment, *Quære* of these things, *Cook* 8 61, 49.

Fine for contempt in FACIE CURIAE. Commitment.

Indictment. Good behaviour.

Sect. 33. About the conspiracy of Victuallers or Workmen.

If any Butcher, Brewer, Baker, Poulterer, Cook, Costermonger, or Fruiterer, conspire not to sell their victuals but at certain prices. Or Labourers or Artificers, conspire not to work but at such

such rates, or not to finish what another hath begun or to do but a certain work a day, or to work but at certain hours, 1 offence 10.l. or if not paid within six daies, twenty daies imprisonment with bread and water only, 2 offence 20.l. or not paid within six daies Pillory, 3. offence 40. pounds, and not paid within six daies, Pillory and losse of one of his ears, and this may be executed in this Court, as well as in the quarter Sessions, 2. *&* 3. *Ed.* 6. 15. Chap. 7.

36. The offence in selling Wine against the Statute of 7. *Ed.* 6. 5. about Wines may be punished here as well as at the quarter Sessions. *Sect.* 34. About Wines.

37. Any default in the owners or Governors of fairs, keepers of the Toll book contrary to 2. *&* 3. *Ph. & Ma.* or 31. *Eliz.* 12. is determinable here as it is in the Quarter Sessions. So any default against the Statutes made for the ordering of Malt-making. 2. *Ed.* 6. 10. *Sect.* 35. About horses sold in Fairs, &c. Malt.

All those things which by any Act of Parliament are appointed to be done at any Sessions, and not elsewhere can be done at no other place or time, and of this nature are all these things before and after particularly named. Such as keep Greyhounds, &c. and against 13. *R.* 2. 13. Such as publish false Prophecies, against 5. *Eliz.* 15. Such as transport corn against 1. *&* 2. *Ph. & Ma.* 5. Such as offend against most of the branches of 5. *El.* 5. about the constitution of the Navy. And such as sell by unlawfull weights and measures against 11. *H.* 7. 4. All these must be punished in one of these Sessions. *Sect.* 36. What may be done out of one of the Sessions.

Chap. VIII.

The Charge for the Quarter Sessions.

Sect.1. THe Articles wherewith you are to be charged are many, for at this Seſſions all things ought to be given in charge, that do lie within the authority of the Juſtices to be determined. Time will not ſerve to tell you all, therefore that we may make the beſt uſe and yet keep our ſelves within the bounds of that time, we have allotted to us, we ſhall obſerve this method. 1. We ſhall wholly paſſe by thoſe particulars which are in reſpect of the preſent time, place, or condition altogether unuſefull. 2. We ſhall only touch upon, and lightly run over ſuch things as are leſſe ſerviceable, and uſefull. 3. And ſtay only upon the things that are moſt pertinent and behoofefull. In the which alſo we ſhall endeavour to be as brief as it is poſſible to be in ſo large a Tract. And therefore we ſhall only name the Law, and offence againſt Law, without amplification or expoſition, and recite only that part of a Statute which makes the offence, and no other part thereof. 2. We ſhall wind up together, and reduce to one head as many things as we may. 3. We ſhall purpoſely pretermit the rehearſall of the puniſhments of each offence, for that they do rather appertain to the Juſtices then to the Jurors. And when we have done all, we ſhall be forced to charge your memory with more then it can well carry away.

The charge to be given doth conſiſt of two parts, Laws Eccleſiaſticall for the peace of the Church,

Church, and Laws civill or temporall for the Peace of the Common Weal, and in answer to this, the offences, which are the breaches of these Laws, are capable of the like division. But they do admit divers other divisions. For these offences are reducible to divers heads, some of them are given in charge here, rather for instruction or preparation, then for execution. Some of them do concern Spirituall or Ecclesiasticall matters, others do concern civill matters. Some of them concern crimes that are more penall, and of a higher nature, others of a lower nature, and lesse penall. Some of them are against the Common, some against the Statute Laws; some of them are publique and generall, and concern the Common-wealth, some private persons. And amongst these also which concern the Common-wealth, some concern the Peace, some the Justice, some the strength, some the flourishing estate, and some the ease of the Common-wealth. Again, some of them concern matter of force and violence, others matter of fraud and deceit; also among them which concern private and particular persons, some concern the body, some the body and goods together, some the goods only, some the name. Those which concern the body, are either in taking away the life thereof, or abusing it without death. Chap. 8.

We shall first of all give you the things that do concern the Ecclesiastical or Spiritual matters. And of these, first such as wherein this court doth take upon it no further conusance, but only to enquire and discover, and so (if it have so much power) to prepare for other Courts who have power to proceed further therein. And these we shall name in the first place. Sect. 3.

If

Chap. 8. If any have brought from the Biſhop of *Rome*,
Sect. 4. or any other authoriſed by him, any tokens or
Agnus Dei. things called *Agnus Dei*, croſſes, pictures, beads,
Croſſes. or ſuch like ſuperſtitious things, and hath offered or delivered the ſame to any to uſe or wear, and if any to ſuch intent have taken and received the
Præmunire. ſame and not apprehended, nor within three days diſcloſed him to the Ordinary or ſome Juſtice of Peace, or within one day delivered the thing to
13. Eliz. 2. ſome Juſtice of Peace, this is a *Premunire*.

Sending children 100. l. 1. Jac. 4. 5. If any have ſent their children or any under their government to any Popiſh Seminary beyond Sea to be inſtructed in the Popiſh Religion, or to profeſſe the ſame.

Popiſh Books 40 s. Books to be burned. 3. Jac. 5. If any perſon have brought from beyond Seas, printed, ſold, or bought any Popiſh books in any language whatſoever, or any ſuperſtitious books in Engliſh, they are to be burned.

All theſe we are to enquire of only, and now we ſhall name to you ſuch offences in Eccleſiaſticall matters wherein this Court hath a compleat conuſance, (that is) power not only of enquiry, but alſo of *Oyer* and *Terminer*. And the firſt of theſe is Hereſie and Blaſphemy.

Sect. 5. If any do wilfully and obſtinately maintain
Hereſie. and publiſh by preaching, printing, writing, or
Ordinance 2. May 1548. teaching, that there is no God, or that he is not eternall, or the like horrible blaſphemy or hereſie, this is felony. If the error be leſſe, as if the opinion be that all men ſhall be ſaved, or that man hath by nature freewill to turn to God, or the like, for this the puniſhment is leſſe, he is to renounce his error according to the order of two Juſtices of the Peace, or elſe ſtand committed to priſon till he give bond to them, with two Subſidie men ſure-

ſureties, never to offend in that kind again.

If any ſuperſtitious monuments or pictures be continued in any Church, Chappel, or open place.

Superſtitious Monuments. *Sect.* 6.

If any perſon who is a Recuſant, convict, or his wife a Recuſant convict, have Altars, Pixes, Beads, Pictures, Crucifixes, or other reliques of Popery, they are (if of ſmall value) to be burnt, or elſe to be defaced.

3. Jac. 4. 23. El. 2. and yet ſome take theſe two offences to be only inquirable, not determinable. Quere ſee 29. Eliz 2 Recuſants 1. Eliz. 20. l. a moneth, and two parts of their Land. 20 l the firſt yeer, 40. l the ſecond yeer. 60 l. every yeer after. 23 Eliz. 1. 3 Jac 1. 29. Eliz 6. 20 l. a month 3. Jac. 4.

If any perſon have ſaid or ſung Maſſe, he is for this to loſe two hundred marks, and be impriſoned one year. If any have willingly heard Maſſe, he is for this to loſe an hundred pound, and be impriſoned one year.

Or if there be any ſuch who do not once every year receive the Sacrament of the Lords Supper according to the Statute 3. *Jac.* Their names and the names of all their children and ſervants muſt be preſented.

Thoſe that preſent them are to have a reward of forty ſhillings out of their goods and Lands.

If any do willingly maintain, retain, relieve, or keep any ſuch Recuſant in his houſe.

If any retain ſuch an one for his ſervant.

If any married woman receive the Sacrament as aforeſaid. 10. l. by the husband or the third part of his Lands 3. Jac 5.

If any Popiſh Recuſant marry, baptize their children otherwiſe then after the cuſtome of the Church.

If any do by word or deed maliciouſly and purpoſely diſturb a Miniſter in the Sermon time, or if any ſhall reſcue ſuch an offender. Good behaviour and three moneths impriſonment. 1 Mar. 3. Sef. 2 Impr. 3 moneths. Impriſonment Fine. 1. Ed. 6. 1.

If any within three moneths laſt paſt have depraved or deſpiſed the bleſſed Sacrament of the body and bloud of Chriſt.

If the Conſtables or other Officers of every Directory. fort. 5. 1.

Chap. 8.

40 s. a time.

1 Offence 5. l. 2. 20. l. 3. Imprisonment a yeer without bail. 5. l or above under 50. l.

parish have not within a week after the sending of the Book called the Directory for worship, delivered the same to the Minister. 2. If the Minister have not read it openly amongst his people the next Lords day after the receipt of it before morning prayer. 3. If the Minister in his Ministration have not observed and pursued that order in all things. 4. If the Minister do still use the Book of Common-prayer in publike or private worship. 5. If any Minister say or do any thing in derogation of this new form of worship prescriced. All that are punished for these things, must be at the next or second Generall Sessions after the thing done. But it is much doubted, whether this Ordinance may be put in execution by Justices of Peace in their quatrer Sessions. Therefore Justices may forbear to give it in charge.

Sabbath day 3. s. 4 d apiece, or sit in the stocks 4 hours for want of distresse, which is to be sold, the overplus restored.

1 Iac. 1. 3. s. 4. d. and the value of the things.

1 Iac. 22. The goods forfeit by Ordinance of Parliament 20. s. 3. Car. 1. 20 s for every offence 6. s. 8 d. 3 Car. 1. 5. s. Ordin. of Parliament or in stocks 3. hours. If above 14. years old 5. s.

If any do not sanctifie the Lords day in the practise of the duties of piety and charity, but prophane it. 2. If there have been Assemblies or meetings of any people for any sport or pastimes out their own parishes, or any Bear baitings, Bull baitings, enterludes, common plays, or other unlawfull exercises in their own parishes on that day within one moneth last past. 3. If any Shoomaker have shewed with intent to put to sale any Shoes, boots, slippers or the like on this day. 4. If any do cry, shew or put to sale, any wares, fruit, goods or chattells on that day. 5. If any Carriers, Waggoners, Wainmen, or Drovers have travelled with Waggons, cart or cattell on that day within six moneths last past. 6 Or any butcher have killed or sold any victualls on that day within this time. 7. Or if any do carry any other burthens or do any worldly work on that day.

8. Or

Chap. 8.

8. Or if any uſe or keep, or be preſent at any wreſtlings, bowlings, ſhootings or ringings for pleaſure, or any wakes, or the like paſtime, &c. 9. If any man without good cauſe travell on this day. 10. If any owner of a Fair or Market keep it on this day.

If under his Maſter or Father 12. d. or in ſtocks three hours. 1 Car 10. 27. H. 6. 5.

If any have prophanely ſworn or curſt. If he be under twelve years old, he is to be whipped by the Parents or Conſtable.

Swearing 12. d. or in the ſtocks 3. hours. 21. Iac. 10.

If any one hath committed wilfull perjury, or procured, or ſuborned another to commit wilfull perjury in any court of Record, court Baron, or hundred court.

Perjury 20. l. and 6. moneths impriſonment. 4. l. or 6. moneths impriſonment. 5. Eliz. 9.

See for profanatiou of Gods name in plays, &c. 3 Iac. 21. Fine Impriſonment.

If any Jury charged to enquire of any robbery or felony, ſpare and conceal it out of favor and partiality, Statute of *Wincheſter* 13. *Ed.* 1. 1.

If any perſon have uſed invocation or conjuration of evill ſpirits for any cauſe, or any witchcraft, enchantment or charm, whereby any perſon ſhall be killed, or any part of him waſted, or lamed, this is felony. If any uſe any Witchcraft, or charms to find out hidden Treaſures, to tell where loſt goods ſhall be found, or attempt thereby to provoke unlawfull love, or to deſtroy or hurt any mans body, or whereby any mans cattel be deſtroyed or impaired, to do this the ſecond time is felony.

Witchcraft. Felony. 1. Iac. 12. 1. offence 1. years impriſonment. without bail and to ſtand in the Pillory ſix hours every quarter of the year: the ſecond offence Felony.

If any do by ſpeech or writing divulge that the eating of fleſh upon daies now uſually obſerved, as Fiſh daies, is of neceſſity for ſalvation of ſouls, or is the ſervice of God, otherwiſe then as other politike Laws.

Opinion preached about eating of fleſh. 5. Eliz. 5.

Theſe are the offences about ſpirituall matters, wherein this court hath a compleat conuſance and Juriſdiction. The

Chap. 8. The offences that follow in the next place, are concerning civill matters. And of these, first of such as are more Penall, Mortall, and of a higher nature, then of others, that are of a lower nature, and veniall: of the first sort are all Felonies. For as touching high Treason, and some Felonies (usually given in charge in this Court) it must be to this end, either for instruction only, or for information, and to make preparation for some other Judges, and Courts, or else as it is a felony (for every Treason at common Law is felony, and more) and so only inquirable here. Now high Treason being the greatest offence, it is not amisse to shew you how many waies it may be committed, and to name those felonies which are only inquirable here.

Sect. 7. High Treason. The offence of high Treason may be committed (by the Act of Parliament of *May* 14 1649.) to do any of these following things. 1. To print, write, or openly to declare that the present Government is tyrannicall, usurped, or unlawfull, or that the Commons assembled in Parliament are not the Supream power of the Nation. 2. To plot, contrive, or endeavour to stir up or raise force against the present Government, or for the subversion and alteration of the same, and to declare the same by any open deed. 3. Maliciously and advisedly to plot the subversion of the Keepers of the Liberties of *England*, or Councell of State, and declare the same by open deed. 4. To stir or move any so to do, or to rise up against either of them. 5. If any but souldiers shall endeavour to stir up any mutiny in the Army, under the command of *Thomas* Lord *Fairfax*, or to withdraw the souldiers thereof from their obedience

to

to their Superiour Officers, or from the preſent Government. 6. To procure, invite, aid, or aſſiſt any forreigners to invade *England* or *Ireland*. Chap. 8.

7. To adhere to any forces raiſed by the enemies of the Parliament, Common-wealth, or Keepers of the Liberties of *England*. 8. To counterfeit the Great Seal of *England*, for the time being. But for any of theſe no man may be queſtioned above a year after the offence done.

Theſe offences are not puniſhable in this Court.

If any perſon within one year laſt paſt, have by word or deed maintained and defended any forreign power, Spirituall or Eccleſiaſticall of any forreign Prince uſurped within this Kingdom: Or if any have counſelled, abetted, or given aid to any ſuch perſon in ſo doing. This in the third offence is high Treaſon.

Extolling forraigne power. 1 forfeit goods. 2. Premunire. High Treaſon. 1 Eliz 1 Premunire. High Treaſon. 5 Eliz 2.

If any within the time aforeſaid hath by word or deed extolled, defended, or maintained the authority and Juriſdiction of the Biſhop of *Rome* uſurped in this Realm, or attributed any ſuch authority to that See, or if any have abetted, procured, counſelled or aided any ſuch perſon. This is high Treaſon being done the ſecond time, the firſt being but a *premunire*.

1 Premunire. 2 High Treaſon

If any have uſed or put in ure any Bull or ſuch like inſtrument gotten from the Biſhop of *Rome*, or any claiming authority under him, or have publiſhed any ſuch, or have taken upon him to abſolve or reconcile any thereby, or if any have received ſuch abſolution, or if any have procured, abetted, or counſelled any ſuch offender.

1 Eliz 1. 5. Eliz 1. Offering of Bulls. High Treaſon.

Or if any have aided, maintained, or comforted

Chap. 8. ted such after the said offence, this is a Premunire.

3. Iac. ch. 4. Jesuits, Seminaries. Treason. 27. Eliz. 2.

If any Jesuit, Seminary, Priest, or any other Deacon or Priest ordained or professed by any authority or Jurisdiction from the See of *Rome*, be come, or do remain in this Realm, this is high Treason.

Premunire.

Or if any give, send or contribute any money or relief to any such for the maintenance of any Colledge or Seminary of such beyond the Seas.

Fine. Imprisonment.

Or if any knowing any such to abide, do not discover it within twelve daies after his knowledge to some Justice of Peace, or higher Officer.

All these offences are punishable in other courts.

To imbezle or rase any Record is Felony, 8. *H. 6. ch.* 12. So to forge, or cause, or agree to be forged any deed or court roll, or to publish any such, knowing the same to be false, the second time is Felony, 5. *Eliz. ch.* 14.

And these felonies are punishable by the Judges of other courts, but not in this court.

We shall now speak to such offences, as whereof this court hath compleat conusance, *i.* power to hear and end. And first of Felonies.

Felonies (we must know) are either simple or relative, by common Law, or by Statute Law; and some are by both. And these again are either (as we have touched already) publike. And those do either concern the Common-wealth either in Treason, as in the cases before, or in Felony only, as by carrying away our men or arms to serve other Princes, or by conjuring rebellious Assemblies, Buggery, Transportation, and the like.

Or

Or else they are private. And those be either such as do touch the body only, or the body and goods together. Or the goods only. That which doth concern the body only, which is either by taking away the life thereof, which is called homicide, or by abusing it without death, as by cutting out the tongue, buggery, Rape, and the like. Homicide is either of ones self or another, that of another is either voluntary, or involuntary. That which is voluntary, is either dispunishable by Law, when it is commanded for Justice sake, or allowed or excused for other cause, which be no felonies. Or it is punishable. And that whether it be upon malice prepensed, as murder, or suddain adventure, as by a suddain falling out and in hot bloud, without any premeditate malice, or in a mans own defence, or by meer chance, as chance medley. Other divisions by others are made of these things. **Chap. 8.**

We shall begin first with those felonies that do concern the Common-wealth, some of which we have spoken to before. And then come to them which concern private persons. *Sect.* 8.

If a Goaler use his prisoner so hardly, that thereby he compel his prisoner to be an approver, to charge another to be a partaker with him in the felony, this is felony. Goaler compelling a prisoner to aprove. 14. Ed. 3. 9.

To offer to smite a Judge in the doing of his office is petit Treason, and the highest degree of felony. Petit treason.

If any had conspired to destroy any of the Kings Counsell, or principall Officers, though he did not effect it, this was felony. Conspiracy against the Kings councell. 3. H. 12.

If one acknowledge a fine, recovery, deed inrolled, Statute, recognizance, bail or judgement Acknowledgement of a Fine &c. 21. Iac. 19.

Chap. 8. in the name of another, he being not privy, nor consenting thereunto, this is felony.

To do the latter of these without the Kings license was felony by the common Law.

Multiplication of gold, &c. 5. H. 4. 4. To practise the art of multiplication of gold or silver is felony.

Congregating of Masons. 8. H. 6. 1. If any shall cause masons to congregate together in chapters, and Assemblies, and there to confederate to subvert the Laws, this is felony.

Souldiers departing. 7. H. 7. 2. 3. H 8. 5. 18. H. 6 19. 5. Eliz. 5. If any souldiers having taken presse money do not go with their Captain, or being in service depart without license, or any Mariners, or Gunners take pressemoney, and depart without license, either of these are felony.

Embezling habiliments for war. If any souldier imbezle or convey away any Ordnance, armour, shot, powder, or other habiliments for war, or victualls provided for souldiers, to the value of 20. s. though at severall times, or have sold or conveyed any horse into forreign parts without license, every of these offences are felony. So if any souldier do counterfeit a Testimoniall from his Captain.

31. Eliz. 4. 39. Eliz. 17.

Transporttation of sheep. 8. Eliz 3. To transport or ship away sheep out of the Realm, the second time is felony.

Plague. If one infected with the Plague, and having the sore running upon him, and being commanded by an Officer to keep his house, doth afterwards go abroad, and converse with company, this is felony.

1 Iac. 31.

Egyptians. If any person of the age of fourteen years or above shall call himself an Egyptian, or shall be in the company of such an one, or shall disguise himself in apparell, speech, or otherwise, like such an one, or shall be or continue in *England* one moneth at one or severall times, this is felony.

1 & 2. Ph. M. 4.

Wil-

Willingly to harbour any Jesuit or Popish Priest born here and at liberty, is felony. Chap. 8. Iesuits.

If any incorrigible Rogue banished the Realm, return without license, or being burnt in the shoulder and sent home, do afterwards wander abroad, each of these is felony: Rogues. 39. Eliz. 4. 1. Iac. 7.

If any Captain or Lievtenant had served any forreign Prince before he had given bond, not to conspire against the King, this was felony, 3. *Iac.* 4.

If one be in prison, or only arrested for felony or suspition of felony, and he break the prison and escape, this is felony. Breach of prison. 1 Ed. 3. 1 H. 7. 6. 1 Ed. 3. 17.

If any idle souldiers or mariners wander about idlely, and will not settle to an honest course of life, or go to their place of birth, or last dwelling, this is felony. 39. *Eliz.* 17. Or if he go without, or counterfeit a testimoniall of a Justice of Peace. 23. H. 8. 11. Souldiers and Mariners. 39. Eliz. 17.

There are divers other felonies touching hawks, and hunting in Forrests, and other matters of little use now, for which cause I shall omit them. 34. H. 3. 21. 1 H. 7. 7.

Now to felonies that concern private persons; *Sect.* 9. and first of Homicide.

If a man kill himself he is said to be a *Felo de se*, and this is such an offence, as for which if he be in his right mind when he doth it, he shall forfeit all his goods and chattells. FELO DE SE.

The offence of killing another man is greater or lesse, according to circumstances. For if a man or maid kill his or her Master or Mistris, a son or daughter kill his or her father or mother, or a woman kill her husband, or a Clerk kill his Ordinary, this is the highest degree of these murders, and is called Petit Treason, which offence Petit Treason. Losse of all.

Chap. 8. alſo may be committed by other Acts.

Murder. The like.

If the killing be with any malice prepenſed, or without any provocation, or by poyſoning, or to kill an Officer in the execution of his office, in which caſes there is malice preſumed to be; this is a high degree, and is called Murder, or wilfull murder.

Manſlaughter. The like.

But if the killing be upon a ſuddain falling out and in heat of blood without any premeditate malice, this is an offence of a lower nature, and is called man-ſlaughter:

se defendendo. Loſſe of goods. Pardon for life.

And if one be aſſaulted by another, and fly as far as he can, and at laſt being followed ſo hard that he cannot avoid it, but muſt in his own defence, and by invevitable neceſſity, kill or be killed, and then he kill the purſuer, this is an offence of a lower nature, and leſſe puniſhment then the laſt. And ſo it is where one doth kill another

Chance Medley. The like.

by miſchance, and againſt his will, by ſhooting an arrow or the like, this is ſaid to be *per infortunium*, or chance medley, and of the ſame nature with the laſt.

Baſtard.

If any woman be delivered of a baſtard child, and born alive, that endeavoureth privately by drowning, ſecret burning, or other way by her ſelf or other, to conceal the death thereof, that it may not come to light, whether it were born alive or dead, ſhe is to ſuffer as a murderer, except ſhe can prove by one witnes that the child was born dead.

21. Iac. 27. Killing juſtifiable or excuſable.

But here e're we go further, we muſt tell you, that there is a killing which is juſtifiable, or at leaſt excuſable. For if a man ſet upon me to rob me by the high way, or to rob, burn, or burglarily to break my houſe, I may kill him. So if

Him that would kill or rob me in war. In doing Juſtice.

I be a ſouldier in a lawfull warre, I may kill as many

many men as I can. If I be a Judge, I may give sentence of death according to Law. If an Officer, I may do execution according to that sentence.

If a Traitor or Felon being pursued, fly or resist that he cannot be apprehended, the pursuers may justifie the killing of him.

So if prisoners riotously resist the Goaler, and they are likely to break away, and he cannot otherwise suppresse them. So when men riotously resist the Justices and other Officers of Peace, and they cannot be otherwise suppressed, or the Peace otherwise kept. So if a Forrester, Parker, or Warrener in pursuit of one that is stealing or spoiling of his game, when being required to yeeld himself he resist or fly. In all these and some other cases, if one man kill another, he shall not be punished at all for it, neither hath he need to sue a pardon of course for his life, as he must do in cases of killing. In his own defence, or by chance medley, and for the better understanding of all these things touching this kind of crime, these general rules must be observed. 1. The death must be within a year of the cause, the blow or the poyson given, otherwise it is no murder, nor punishable with death. 2. If one intend to kil one, and misseth him, and killeth another, this will be all one in construction of Law, as if he had killed the same person. 3. If one be in doing an unlawfull Act, as beating a man or the like, and in the doing thereof he kill a man accidentally, this is a killing punishable, and may be greatned or lessened by circumstances. 4. If divers persons come together to do an unlawfull Act, and one of them kill a man, and the rest stand by, and look

To keep the Peace.

Chap. 8. on; they are all principall murderers. 5. All that are present at a murder, and do encourage the murder, are principalll murderers. 6. It is not materiall who gives the first blow. 7. It is no murder, unlesse the party killed be in being. 8. An intent of killing, unlesse the act following is not punishable by death. 9. Infancy, madnesse, and compulsion will excuse a man from punishment in case of man-killing.

So we have done with felonies private touching the body only, by taking away the life thereof; and now are come to speak of those felonies which do concern the body, by abusing of it otherwise.

Sect. 10. If any man wilfully put out the eys, or cut out the tongue of another man; this is felony.

Cutting out of tongues, &c. Losse of all, 1 H. 4.5.

If one commit Buggery with man or beast, this is felony; for which antiently he was to be burned.

Buggery the like. 25.H 8.6. 5.Eliz. 17.

If any take away any wife with her husbands goods, maid or widow, having Lands or goods, or being heir apparent to Land, against her will, or if any receive any such, this is felony.

Taking and carrying away women, &c. Losse of all, 3.H.7.2.

If any do ravish any maid, or wife, or widow above ten years old against her will, though she after consent to it. Or if any do carnally know any maid under ten years of age, though it be with her consent, this is felony.

Rape the like, Westm..2.14. 18.Eliz 5.

If one marry a second wife or husband, the first being living, this is felony. But if the party have been absent seven years, and the one doth not know the other to be living within that time, or they be legally divorced, or they were

Bigamy the like

1 Jac 11.

were married within years of consent, it is otherwise. Chap. 8.

Now follow such felonies as do concern the body and goods together, or the goods only. Sect. 11.

The felonie that is committed by the taking away of anothers goods is greater or lesse also by circumstances, for if one do feloniously take away the goods of any Párish out of their Church, or Chappell, this is a high degree of felony, and is called Sacriledge.

Sacriledge, losse of all.

If one take away any thing from the person of another, any thing by way of robbery upon the high-way, of picking a pocket, or cutting of a purse, though it be but a penny, this is an offence of an high degree, and called robbery. So likewise if one break into the house of another, where he, or some of his family are, or use to be, with an intent to rob or kill in the night time, and do, or do not take away any thing, this is a great offence, and is called Burglary. So to rob a house, barne, or stable in the day time, to the value of five shillings, though no body be in it. Or to rob it by day or night, if the person be in it, and put in fear, or to rob him in any part of his dwelling house, any of his household being within it.

Robbery, losse of all.

Burglary, losse of all.

Or to rob any booth in any fair or market, any person belonging to it, being within it, sleeping or waking; all these felonies are Burglary. But if in other cases one man do feloniously take away the goods of another against his will, be it horse, sheep, plate, or any other live or dead thing, if it be above twelve pence in value, this is felony; yet in this case, he shall have his Clergy for his life. But if the thing taken be

Felony, great and small.

Chap. 8. twelve pence in value, then it is a leſſe offence, called petit Larceny, for which the offender is only to be whipped.

Petit Larceny, whipping.

If any ſervant truſted with his Maſters goods, to the value of forty ſhillings, or more, imbezle the ſame, this is felony.

Servants truſted with goods, the like. 21. H. 8. 7.

If one wittingly burn any houſe, or barn full of corn, or any out-houſe adjoyning to ſuch a barn, or dwelling houſe, in the night or day, this is felony. Alſo the burning of any other houſe, or ſtack of corn felonioufly, is thought to be felony by the common Law. So alſo if a man wilfully burn his own houſe, and thereby burn his neighbours houſe alſo. So if one burn a part of his neighbours houſe wittingly, and it be quenched, this is felony. If one do malitiouſly cut or burn any frame of building provided for a houſe, whereby it is made unſerviceable, this is felony.

Burning of houſes, the like.

5. H. 4. 5.

Now for the better underſtanding of theſe things, and Larceny in generall, you muſt know, 1. It muſt be of goods and chattells, perſonal and moveable. Therefore the ſtealing of Chattels reall, as Charters of Land, an infant in Ward is not Larceny. Nor of ſuch things as are part of the Freehold unſevered; as fruit from a Tree; Lead from a houſe or Church. Yet if one cut down a tree one day, and fetch it away to morrow, it may be Larceny. 2. The party from whom they are ſtollen muſt have a property and a poſſeſſion. And therefore to ſteal goods hidden, waved, or wrecked, or ſtrayed, is no felony. So to ſteal things which are wild of nature, as Doves abroad, fiſhes in a river, is no felony, except it be young Pigeons in a neſt, and ſo reſtrained

ſtrained by nature, or fiſh in a ſtew or pond, and ſo reſtrained by plac, or made tame by Art, as tamed Deer. But to take the fleſh of any wild fowl dead, or the wooll from off the ſheeps back is felony. 3. They muſt be things of profit, therefore to take away Dogges, Apes, Parrets, ſinging Birds, and the like, is no felony. 4. It muſt not come to the party taking away by the delivery of the owner; yet if a man have the uſe only, as of plate in a Tavern, or one deliver the goods to carry to one place, and he carry them to another, or carry them to the ſame place, and then takes them away, this is felony. 5. The Writ is carried, or lead away; yet if one move the goods out of their place, with a felonious intent to ſteal them, though he carry them not out of the houſe, it is felony. So if one ſtealing away a Horſe, be taken in the manner, ſo that he cannot carry him away, this is felony. Chap. 8.

Thus far of *Simple Offences*. Now for *Relatiue Offences*, whereby a man doth participate of anothers offence. *Seſſ.* 12.

One may be acceſſary to anothers offence two waies, either before or after the ſame is committed. A man may be acceſſary before the offence committed, by commanding, conſpiring, hiring, abetting, procuring, countenancing or agreeing to it, when he is not preſent at the deed done. And a man may be acceſſary after the offence done, by harbouring, comforting, cheriſhing, ſhifting away, or concealing of the offender knowing of the offence. And by this he may make himſelf as far forth guilty and puniſhable as the principall offender, conſentors, actors, and inſtigators, that ſuffer the ſame Acceſſary before or after.

Chap. 8. ſame puniſhment, touching this thing, theſe rules and caſes are to be remembred. 1. In Treaſon and Treſpaſſes, all are principalls, and there is no acceſſary. 2. If one command an evill act, as to beat another man, or the like, and felony proceed thereupon, he is guilty of this felony; otherwiſe, where the act is lawfull, and that effect followeth. 3. If one command a felony, and it be done in another faſhion, time, place, or manner then was commanded, yet he is acceſſary to it. 4. But if one command one felony, and he do another, or it be executed on another perſon; or if one do only know of a felony, and not give conſent to it, or be preſent at it (not being party or privy to it) and do not diſturb it, or purſue the felon. 5. If one purſue a felon by hue and cry, aud take him, and then take his goods and let him go, or take money of him not to give evidence againſt him, or receive ſtollen goods, knowing them to be ſtollen, by either of theſe he maketh himſelfe acceſſary. 6. But to take a mans owne goods, and no more, or to endeavour to deliver a felon, or to take ſtollen goods into his houſe, not knowing of it, and no more, will not make a man an acceſſary. But if a man buy ſtollen goods he knoweth to be ſo, and for a ſmall matter, it is dangerous. 7. Felony by Statute hath acceſſaries before and after the fact done, though the Statutes ſpeak not thereof.

By breaking of the priſon. The like.

A man may make himſelf guilty of anothers offence by a labour to ſhift the offender from the Juſtice of the Law. As if one in priſon, or under arreſt for an offence, or upon a ſuſpition of it, and another break the priſon, and help to convey

vey him away secretly or openly, by this he makes himself guilty of his offence. Chap. 8.

So if one be attainted, arrested, or imprisoned for an offence, or upon a suspition of it, and another doth forcibly rescue him out of his hands that hath him, by this he maketh himself a principall offender guilty of the same offence, and liable to the same punishment, whereof the party rescued was guilty, and to which he was liable. By rescue of the prisoner.

If any hinder by rescue, or otherwise, the execution of the Statutes against Rogues, or for the poor. Five pounds good beaviour.

A man may make himself partaker of anothers offence also, by an escape. And this either voluntary or negligent. If one have a prisoner under arrest for an offence, and he do willingly suffer him to escape, this in most cases is as great and dangerous an offence as the first: as if the first offence be treason, this is so also; yet if the first offence be man-slaughter, this is only fineable. But if the primitive offender escape against the will of him that hath the custody of him, this offence is onely punishable by fine and imprisonment. If a man be slaine in the day, and the Felon not taken, the Town-ship is to be amerced. 39 Eliz. 3. 4. By escape voluntary, or negligent. 3 H. 7. 2.

A man may make himself in some measure guilty of anothers offence by concealment of it. For if one conceal a Treason, this is a misprision of Treason, and is felony. And if one conceale a felony, this is a misprision of felony, for which a man is fineable: for every man is bound, as much as he may, according to the duty of his place, to prevent and hinder these evills. And therefore if one stand by and look By misprision.

on

Chap. 8. on whileſt a man is ſlain, and do not his beſt to prevent it, or after he is wounded to attach the murderer, he may be indicted and fined for it. And ſo if he attach him, and after let him eſcape.

21. H. 4. 12. Stamf. 38.

Sect. 13. Now we ſhall deſcend to the offences which are veniall, and of a lower nature: And firſt of ſuch offences which are directly againſt the peace of the Kingdome.

Treſpaſſes. Theſe are ſome of them accompanied with a kind of violence, or at leaſt a ſhew of violence. And ſome of them are without violence, and accompanied with a kind of fraud, deceit, or negligence. The firſt ſort are either extraordinary, as Maimes, Riotous, and forcible unlawfull Entries, or the like. Or ordinary, as aſſault, battery, and the like. And all theſe are within the Commiſſion under the word Treſpaſſe.

Maimes, grievous Fine. Impr. till paid. If one maim another, that is, by violence offered to his perſon, deprive him of the uſe of any one of his principall parts, as his Eye, Foot, Hand, Fore-teeth, Head, or the like, or break his skull, or any bone of his body, whereby he is leſſe able to defend himſelf or offend his enemy. For this he and his acceſſaries ſhall be grievouſly fined. But if it be ſuch a hurt as is onely a deformity in the body, as the cutting off the Eare or Noſe, or beating out of the grinding Teeth, or the like: This though it be a wound, yet is no maim.

Lying in wait. Fine. If any have lien in wait to maim or kill another, ſo that he dare not go about his buſineſſe: This in the Commiſſion is thus expreſſed, *De hiis qui ad gentem noſtram maihemand. vel interficiend. in inſidiis jacuer.*

If

If any challenge another to fight him, it is indictable, especially if he send a challenge in writing. Chap. 8. Challenge.

If any do outragiously or riotously pull down, or spoil any houses, pales, mills, Dove-houses, bayes, ditches, inclosures. Or spoil, or rob any fish-pools, Parks, Warrens, or take any Hawks, or Hawks egs, or the like. Destroying houses, Parks, &c. Fine, Imprison. three moneths.

If any do maliciously strike another in the Church or Church-yard with a Weapon, or draw a weapon to that purpose, this is a great offence. So to strike another in the presence of a Judge is a great offence. So to strike an Officer, especially in the doing of his office. So for a servant to strike a master, Dame, or Overseer, is a great offence. Striking in a Church-yard loose of an ear. To be marked with an F. Great Fine, good behaviour.

Ordinary Trespasses follow. If a man do unlawfully assault, imprison, beat, or wound me, or unlawfully take away, break, or spoil my goods; chase, kill, or hurt my cattell, break or enter into my house, enter into my Land, cut, spoil, eat up, or tread my grasse, or corn, break my Walls, dig or carry away my earth or coal, lop, fell, bruise, or break my hedges, or Trees, carry away my wife, son and heir, or ward, or unlawfully arrest my goods or cattell; break, or cut my fluces, or shear my sheep, let out the water out of my Mill-pond, beat my servant so that I lose his service, or do to me any other such like wrong, for which I may have an Action of Trespasse against him. For this offence he may be indicted and fined in this Court. And yet I have my Action against him notwithstanding. For in all these Acts there is a double offence, the one against the Common-wealth, for which he

Chap. 8. he is to be punisted by fine, the other against me, for which I by my suit shall have amends in Damages.

First offence amends or whipping, 2 Offence whipping and good behaviour and house of Correction; the Constable to be committed till he procure him to be whipped, 43. El. 7. 7. Jac 4 Imprisonment three months, 3 Damages to

If any lewd person have, or hath procured to be unlawfully cut or taken away any Corn growing, or rob any Orchard or Gardens, or break and cut any Hedge, Pale, Raile, or Fence; or dig, pull up, or take away any Fruit-trees; or cut or spoyl any Woods, under-woods, Poles, or Trees standing, not being Felony.

Fine 13 Jac. 13. 7. Iac 13.

If any have by night or day unlawfully broke or entred into any Park impaled, or other severall Grounds incloſed, used for keeping of Deer; or in the night time unlawfully, and there hunted, driven, or chaſed out, taken or killed any Deer or Conies against the Owners will.

There doe follow in the next place such Trespasses which are accompanied more with fraud and deceit, than with force and violence.

Sect. 14. Conspiracy, Fine,

If any doe conspire and confederate together, to cause another to be unjustly indicted for an Offence, whereof he is afterward acquitted. And in this four things must be known. 1. That there must be two or more persons in the Plot or practise. 2. There must be an Inditement and Arraignment of the party. 3. All this must be voluntary and advised. 4. The party indited must be in lawfull manner acquitted; otherwise the party is not inditeable.

slander, Imprisoned till he find his Author, or good behaviour, West 2. 14. 2. R. 2. 5.

If any by writing, printing, speaking, or otherwise devise and spread any false and seditious news, lyes or rumours, whereby discord may arise between the People of this Common-wealth. Act. 20. *Sept.* 1649.

If

If any do libell against another man, that is, make or promote any scandalous writing or doing to the defamation of another man, especially if he be a Magistrate. **Chap. 8.** Libell.

If any man slander me by such words as for which I may have an action of the case, as to say I am a Traitor, Felon, Thief, Robber, or the like, for this he may be indited and fined. But not for words that will not bear an Action though they are motives to the Breach of the Peace. Slanderous words. Cook. 4 pat. Inst. 181.

If any man do so deceive as I may have an Action of the case for the deceit; it seems for this offence he may be indited also. And therefore if one sell me that which is none of his own, or sell me false and deceitfull wares, or play with me with false Dice; Or being a Millard do change my Grist, this is punishable here. And so is any Misfeasance by a Nusance, or otherwise, where an Action of the case lieth, and the Writ is against the peace. And therefore a man may be punished here for stopping a ditch, whereby my ground is drowned; over-riding my horse, disturbing me in my way, Office, Buriall, or the like. So for stopping of my lights, laying blocks in the high-way, whereby my horse is occasioned to stumble, and I am hurt. So for any other Nusance done to men in the Water, Ayr, Light, or Wayes; as by setting up houses of Office, Lime-kills, Dye houses, unnecessary gates, or turning of waters in the high way. But to set up a new Mill, a new Pidgeon house, or a new Coniger is no Nusance. Deceit. Misfeasance. Nusance.

If any water any Hemp or Flax in any River, stream, or common pond where cattell use to drink. Watring Hemp. 3. H. 7. 17.

Chap. 8.

Falſe tokens. Any corporall puniſhment but death, the Juſtices ſhall ſet down.

If any one get the goods of another by privy tokens or counterfeit letters, in other mens names, to perſons that are their ſpeciall friends and acqnaintance.

31. H. 8. 1. Forgery, Fine, and impriſon.

If any forge a deed, that is, make and publiſh any falſe deed or writing to the prejudice of anothers right, either to charge or get his Land or goods; as if a Copyholder make and publiſh a Cuſtomary for an uſage, and put ſeals to it, to the prejudice of the Lord, or one forge a Teſtament, whereby a Leaſe for years is given, or if any man make uſe of any ſuch deed, knowing it to be ſo forged. Theſe may be puniſhed by the Common Law, but the power of execution of the Statute is not given to the Juſtices of the Peace.

5. Eliz. 14.

Thus much of Treſpaſſes by force or fraud.

Sect. 15.

Ride armed. Impriſ. loſſe of Armour. Stat. Northampton. 2. Ed. 3. 3. Unlawfull Aſſembly.

If any man but ſuch as have authority, go, or ride armed in an unuſuall manner, this is an affray, and breach of the Peace, and every man may arreſt them. This offence is thus expreſſed in the Commiſſion; Of thoſe who in Conventicles againſt our peace, to the perturbation of our people, or with armed force have gone, or rid.

If three or more come together with an intent violently and forcibly to commit an unlawfull Act, as to beat or wound a man, enter into, break or pull down ſome houſe, wal, pale, hedge, or ditch, wrongfully enter into a mans poſſeſſion to claim or take a common or way, to deſtroy any Park, Mill, or ſtacks of corn, take away a mans wife, or the like, and they do willingly depart, and do nothing, yet this is an unlawfull meeting, and puniſhable.

If after their meeting they move forwards towards

wards the execution of the act, whether it be done or no, it is a Rout. And if it be done it is a Riot. So that every Riot doth include a Rout, and an unlawfull Assembly. And that act which is a Riot in the execution, is a Rout, and an unlawfull Assembly in the preparation. And that which is an unlawfull Assembly in the first meeting, is a Rout in the further proceeding, and a Riot in the finall execution. To this there must go three things. 1. There must be three persons at the least gathered together. 2. Their intent in the first meeting must be evill. 3. Their being together must breed some apparent disturbance of the Peace, either by speech, shew of armour, turbulent gesture, or actuall and expresse violence, to affright peaceable men, or embolden light men by their example.

3. H. 4. 17.

If any stir up another to do such an act, or if any be stirred up hereunto, and do not within twenty four hours after disclose it to the Sheriffe, or a Justice of Peace. But herein you must know, that this doth not prohibit Assemblies to lawfull ends, as to do execution of Justice, to take down common Nusance, for a lawfull Recreation, or the like.

Affray.

If any great affray be made in a disturbance of the Peace, and you are to find who they were that did it, and in what manner it was done.

Prophecy 10. I. Imprisonment a year without Bail 10. H. 1. Imprisonment during life losse of all his goods and chattells. 5. Eliz 15.

If any divulge any Prophesie with intent to make rebellion, or other disturbance in the Realm.

But he must be charged within six moneths after the offence is done.

Forcible entry, or detainer.

If one make forcible entry into Lands, and do forcibly detain Land (that is) do violently and actually enter into any houses, or lands, or take

Chap. 8. and diſtreſſe being weaponed, whether he offer violence, or fear of heart to any there, or furiouſly drive out any out of the poſſeſſion thereof, or not, or having entred into the Lands peaceably, doth after hold the ſame with force, which is ſaid to be a violent act of reſiſtance by a ſtrong hand of men weaponed with harneſſe, or other action of fear, by which the lawfull entry of Juſtices or other is barred or hindred: for the better underſtanding whereof, you are to know theſe things. 1. That one man alone may commit this offence. 2. That an Infant or feam Covert, as they commit moſt other criminal offences, ſo they may commit this offence. 3. If divers come in company to do this or any other Treſpaſſe, and one of them alone doth the wrong, and the reſt ſtand by, and look on, and do not withſtand it, they are all guilty. 4. If it be done by three or more, then it is a Riot, which of his own nature is a great Treſpaſſe alſo.

Impriſonment, Fine, and to remove the force, and upon pledges found for the Fine to deliver them. Make reſtitution but not without Inquiry.

5. R. 2. 7. 15. R. 2. 2. 8. H. 6. 9. 31. Eliz. 11. 21. Iac. 15. 20. H. 6. 5. Riot.

Great Fine.

If any one above fifteen years old, under the degree of a Knight, required by any Juſtice of Peace, or the Sheriffe, to aſſiſt in the ſuppreſſing of a Riot, and the puniſhment of the Rioters, refuſe it.

Sect. 16. Offences againſt the Juſtice of the Kingdom.

The Statutes of *Winchester* are eſpecially commanded to be given in charge, the Articles whereof are as followeth.

Hues and Cries.

For the apprehending of Felons, Hues and Crys muſt be ſolemnly made in all Counties, and Hundreds, Markets, Fairs, and all other places where reſort of people is, and immediately upon the felony committed, freſh ſuit muſt be made from town to town, and country to country; and every

every man as well within Franchiſes as without, is to be ready at the commandement of the Sheriffe and cry of the Country to ſue and arreſt felons, *Stat. of Winchester 13. Ed. 1. Ch. 2.* So that if a felony be done, and he to whom it is done, or another of the company, or ſome other cometh to the Conſtable of the next place; and doth tell him of it, and deſcribe the felon, and which way he is gone, the Conſtable is preſently to call upon the Pariſh, and they are to make a freſh purſuit, and an earneſt and diligent ſearch for him; and if they find him not, to tell the next Conſtable, who with his Pariſh alſo are to do likewiſe, and ſo to follow the purſuit of the felon to the Sea ſide, or till he be apprehended. Chap. 8. Freſh ſuit Fine.

If any Sheriffe, Coroner, Steward, Bailiffe of Franchiſe or other, ſhall for fear, favor or reward, conceal or conſent to the concealment of any felony, or do not his office in the arreſting of felons, and his endeavour to puniſh them, if any neglect thereof have been therein. If Hues and Cry have been raiſed without cauſe, or having cauſe, if they have not duly raiſed, and effectually purſued, you are to preſent it. Dalt. Iuſt. P. ch. 28. Grievous Fine.

In great walled Townes the gates muſt be ſhut from Sunſetting to Sunriſing, and no man is to lodge in the Suburbs nor out of the Town from nine of the clock till day, unleſſe his hoſt will anſwer for him, and the Bailiffes of the Town muſt enquire of ſuch perſons, once within every fifteen daies, and if they find any man to have harboured ſuch ſuſpitious perſons, they are to be puniſhed as breakers of the Peace. Watch. Stat. Winch. ch. 4. 5. H. 4. 7.

You are therefore to enquire whether the watch be kept from *Aſcenſion day* till *Michaelmas*, from

Chap. 8. Sunset to Sunrising, and with a number of men, as is fit for the place. And if any stranger passe by them, they must arrest him till the morning. And if then he seem suspitious, they must deliver him to the Sheriffe. If otherwise, then they are to let him go; and if he refuse to submit to the Arrest, and get away, they may send Hue and Cry after him, till he be apprehended.

Stat. Winch. c. 4 5. H. 4. 3.

Sect. 17. Officers.

There are many Lawes that do concern Officers, Sheriffes, Bailiffes, Constables, Escheaters, Ordinaries, Coroners, Clerk of the Market, overseers of the poor, and others. They altogether speak thus much in the generall, that Officers must be skilfull, and faithfull, attend their charges, and be content with their wages. If any negligence or corruption be found in any of them it is to be punished here.

This offence is thus set forth in the Commission. As also whatsoever Sheriffes and other Officers, who in execution of their Offices about the premises, or any of them unduly have behaved themselves, or slack, remisse, and negligent have been.

Sheriffe forty pound, if he impannell any Jury before,

If any under-Sheriffe, Bailiffe of Franchise, or Sheriffes deputy appointed to have to do in the returning of Juries, or execution of processe, do intermeddle therewith before he hath taken the Oaths set down in 27. *Eliz. ch.* 12. or after he is sworn to do any thing against these Oaths.

27. Eliz. 6.

If the Sheriffe return issues upon Jurors not having summoned the man.

Treble damages and Fine.

If a Sheriffe imbezle a Writ, or make a false return.

If he or his Officers levy the publike debts by Rolls, and not by Estreats under the Exchequer Seal, 42. *Ed.* 3. 9. or they do not tot that which

is

is paid, so that he be made to pay it again. **Chap. 8.**

If any Sheriffe let his County, or any of his Bailiwicks, Wapentakes or Hundreds, or have returned in any Pannells any Officers or their Servants, or Servants Servants, have refused to let to Bail upon sufficient Sureties any person arrested on an action personal, or an indictment for Trespasse (not being in for condemnation, execution, outlawry, excommunication, Surety of the Peace, or commanded of any Justice, or for being a vagabond, or if he have taken any obligation by colour of his office, but only to himself, and upon the name of his Office, and upon condition only to appear according to the Writ or Warrant.

Letting his Bailiwick. Return of Pannells. Bail. Forty pound for every offence, treble damages to the party grieved. Obligation. 23. H. 6. 10.

County Court.

If any Sheriffe or his Ministers have entred into his book any Plaints in any mans name, not being present at the Court himself, or by his sufficient and honest Atturney, or deputy; or if he hath entred any more Plaints then the Plaintiffe suppoſeth he hath cause of action for. Or if he hath levied the Shire amerciaments without a book indented between him, and two Justices of Peace. Or if the Bailiffe of the Hundred have made default in warning or executing any Warrants against any Defendent in the Sheriffs Court; Or if the Bailiffe be not sworn before the Justices of Peace to collect no more money then what is in these Estreats.

Forty shillings every offence. 11. H. 7. 25.

Or if the Sheriffe do not see that the Plaintiff do put in pledges to prosecute his Action.

If any Sheriffe that hath the return of any Writ, return any Juror without the addition of his place where he doth now, or did within a year past dwell, or some other addition where-

Return five marks to the King five marks to the party.

Chap. 8. by he may be known; or if any Eſtreat of iſſues hath been gathered of any perſon other then ſuch as by vertue of the ſaid Eſtreat was of right chargeable.

27. Eliz. 7. Double value. If any Sheriffe or his Officers having received money for the forfeiture of a man for ſelling of Beer to an unlicenſed Alehouſe upon the Statute of 4. *Jac.* 4. and refuſe to pay it to the Churchwardens and Overſeers.

Return of Jurors 20. pound. 8. H. 6. 9. If he do not return ſufficient Jurors to enquire of forcible Entries, or otherwiſe neglect the Juſtices warrant.

Clerk of the Market. The Clerk of the Market, or other Officer for that purpoſe is to mark and ſeal ſuch weights and meaſures as are brought to him. 2. According to the Exchequer meaſure. 3. This he is to do but once, not every year.

Goaler Fineable. If a Gaoler ſuffer a priſoner to have more liberty then is fit, for priſoners muſt be kept in ſafe and cloſe cuſtody. Or if he refuſe to take in ſuch priſoners as are ſent to him, or ſuffer eſcapes.

Steward of Leet 13. R. 2. 8. If any Steward of a Leet, or Officer of Market Town have taken any fine for breach of the Aſſize of bread or beer in ſuch caſes where corporal puniſhment is appointed.

Coroner 40 s. 1. H. 8. 7. If the Coroner do not come upon requeſt, and enquire upon the view of any perſon ſlain, drowned, or otherwiſe dead by miſadventure.

Eſcheators 40. pound. 11. Ed 4. 9. If any Eſcheator take upon him the office, not having twenty pound a year Land in the County, or ſell or let to farm his office, or make Deputies for whom he will not anſwer, or whoſe names he hath not certified unto the Exchequer within twenty daies.

Ordinary 10. p. u id. 21. H. 8. 6. If the Ordinary delay to prove Wills at the

pay,

pay, and fees appointed, or to grant administration according to the Statute, or to deliver Copies of Testaments or Inventories. Chap. 8.

If any owner or officer, ruler of a fair, have not appointed one certain open place there, for the sale of horses, geldings, mares, and colts, and one sufficient person to take toll, and keep the said place, and take toll there from ten a clock to sunset. And take any toll after or before, or elsewhere. And if he have not the parties contracting, and horse for which the contract is made present. And do not take and keep a book, and therin write the names of the persons contracting, the place of their dwellings, and colour, or some speciall mark of the horse. Owners and rulers of Fairs and Markets forty pound. 40. shill. 2 and 3. Ph. & Ma. 7.

If any have in any fair or market sold or put away any kind of horse, unlesse the Toll-taker, or chief Officer there will take upon him perfect knowledge of the person, his name and place of dwelling, and enter the same into his book. Or unlesse the seller bring to the Toll-taker one credible man that will testifie that he knoweth the man, his name, mystery, and place of dwelling, and then enter the same. And the names, mystery, and place of the testifier, and the price of the horse. And if any testifie that doth not truly know the same. Or if the Toll-taker shall refuse to give a note to him that buyeth of that entry, paying 2.d for it. Five pound every default.

If the Toll-gatherer, or book-keeper do not within a day after the Fair or market bring his book to the Governour. And if he do not cause a note to be made of all the horses sold, and subscribe his name or mark to it. 31. Eliz 12. 40. shil. every fault. 2 and 3. Ph. & Ma.

If Head Officers of Towns have not twice a Head Officers of Towns. fine. 11. H. 7. 4.

Chap. 8.

year made view and examination of the weights and measures there, and break and burn the defective.

Constables, Overseers of the poor, Churchwardens.

If the Constables and Churchwardens do not present the monethly absence of Recusants from Church.

1. Jac. 9. 10 s. to be levied by distresse and sale 20 shil. Double the value.

If the Constable or other Officer do not his office against Drunkards, upon 4. *Jac.* 5. Or if he do not his duty in the levying of money upon Alehouse keepers according to the Statute.

If the Constable hath not punished Rogues according to the Statute of 14. *Eliz.* 5. 1 *Jac. ch.* 7. especially when they are brought to him.

If the Churchwardens and Overseers of the poor, to whom money forfeited by 4. *Jac.* 4 is payed, do not bestow the same amongst the poor, according to the Statute of 1. *Jac.*

If the Churchwardens do not levy the money for the relief of prisoners according to 14. *Eliz.* 5. 1 *Jac.* 25.

20. shillings.

If the Constables and Churchwardens do not in *Easter* week chuse Supravisors every year to look over the high-waies according to the Statute of 2 *&* 3. *Ph. & Ma. ch.* 8.

20. H. 6. 8.

If Constables do not assist men against the unjust taking of Purveyors, being required.

Fine.

If either of these Officers slight or neglect to execute the Justices of Peace his Warrant in case where they have authority, and are commanded by it.

Five shillings a week, 5. pound, good behaviour

If Constables and Churchwardens do not pull down Maypoles within their Parish.

If Overseers of the poor put out such poor out of their Parish, as ought not to be put out against 39. *Eliz.* 4.

If

Chap. 8.

If the Over-seers of the poor do not their duty according to the Statute of 39. *Eliz.* 34. 43. *Eliz. ch.* 2. as to set the poor on work, make and levy rates, meet monethly and give account. 20. s. every default.

If Constables and such like Officers do not their best to keep the Peace, to part Affrayers, keep them asunder, and if he do not bring them to prison when he hath done. If they refuse to give account to be committed.

If the Minister of the Parish do not keep a Register Book to enter the Testimoniall for Rogues, according to 39. *Eliz.* 3. & 4. And there must enter Licenses for sick persons to eat flesh, and a Testimoniall for servants departing from their Masters. Minister.

If a common Informer informe after he is legally put out, or being duly in, compound with any offender, without license of the Court; or doth follow any suit by his Deputy, and not in person, or by his Attorney in Court: Or if he compound before the Party answer, or after, or take any reward or promise, without consent of the Courts at *Westminster*, or one of them. Informer 28. Eliz. 5. 27. Eliz. 10. 31. Eliz. 5. Pillery two hours on a market day, 10. l. and deposed.

If the Gawgeor do not Gawge all the Vessells that come into this Realm within the limits of his Office, according to the contents of the Statute, 28. *H.* 8. 14. and mark upon the head thereof his content, according to 1 *R.* 3. 13. Gawgeor four times the value of that which the vessell shall lack.

If Bailiffes and Heads of Cities, Burroughs, and Market-towns, and Lords of Liberties out of such places, do not yearly appoint and sweare two or three, or more, skilfull and honest men, to be Searchers and Sealers of Leather there, and six honest men to try it. Or if such Searcher or Sealer refuse to execute his Office, or Searchers and Sealers of Leather 40. l.

if

Chap. 8.

Ten pound. Five pound. Fourty shillings 1 Iac. 22.

if Tryers refuse or delay, and do not their duty, or if Searchers or Sealers refuse or delay to seale good Leather, or allow unsufficient Leather, or receive any bribe for executing of his Office

Treasurers for maimed souldiers. 43. Eliz. 3.

If the Treasurers of the County stock for poor maimed Souldiers and Mariners, do their duty according to

Searchers of Tile 10.s. every default. 27. Ed 4.4.

If the Searchers of Tyle appointed by the Justices of Peace, do not search the Tyle, and present the defaults of Tyle-making at next Sessions.

Atturney.

If an Atturney sue another man of his owne head in anothers name, without authority, or discover his Clients counsell, or the like.

Supravisors of the high wayes 20. i. 2 & 3. Ph. M. 8. 5. Eliz. 13. Gov. of the house of correction.

If the Supravisors of High-wayes do not set the Inhabitants their daies for work for them and their Ploughs, and see they do it, and present the defaults according to the Statutes to the next Justice of Peace within a moneth.

If the Governour of the House of Correction do not his duty according to 39. *Eliz.* 4. 7. *Iac.* 4.

Overseers of cloth 10.l. every default. 3. Ed. 6 2. 21. Iac. 18. 39. Eliz. 20. 43 Eliz. 10 5.l. to be be commit. till paid, 5.l commit. till payment.

If the Over-seers of cloth appointed by the Justice of Peace, do not their duty, in looking to the cloth that is made, that the Ordinance of Parliament be observed. They are once a quarter at least to visit the Houses and Shops of Cloth-workers, Dyers, Drapers, and to view the cloth made. Or if they refuse or neglect their Office, or to take their Oath. If they refuse to appear, or be bound in a Recognizance.

Collectors for prisoners in the common Goale.

If the Collectors of the money for the relief of the prisoners in the common Gaole, do not their

their duty according to 14. *Eliz.* 5. **Chap. 8.**

If Purveyors take goods, and not pay for them; Or if any such Officers have procured any to be arrested, or vexed, for resistance of their unjust demands. If they take Sea-fish from any Seaman against his good will. Purveyors, 2. H. 6. 8. 23. H. 6. 2. Double damages 20. l. Double the value, 5. Eliz. 2. 5.

If any Purveyor of Timber have felled any oak-timber fit to be barked, but according to the Statute of 1. *Jac.* 22.

If the Treasurers for the relief of the prisoners in the Kings Bench and Marshalsey, do their duty according to 43. *Eliz.* 2. Treasurers for the Kings Bench

If any Officer by colour of office, be he within or without a Liberty, require more money for the doing of any part of his office, then is due and appointed, this is extortion. And this is within the Commission, in these words, Of extortions. *Sect.* 18. Extortion. Fineable. 27. H. 8. 27.

By *Westm.* 1. 3. *Ed.* 1. No Minister of the King may take any reward for doing his Office. 1 H. 4. 11. Fitz. I P. 170.

The Sheriffe is not to take above 20. d. for an arrest; neither he nor any Officer of his to take any thing for any Return or Pannell, or to take above four pence for the Obligation, or any Warrant or Precept, nor is he or any Bailiffe to take above four pence for any Arrest: Or the Gaoler to take above four pence upon the commitment of any person arrested to him; neither he nor the Gaoler are to have any thing of Constables, or Townships, when they deliver in Felons to them, yet they are to receive them. Sheriffe or his Officers. 40. l. for every offence. Treble damages to the party grieved. 23. H. 6. 10.

The Sheriffe for doing execution upon body, lands, or goods, is to have but twelve pence 29. Eliz. 4.

the

Chap. 8. the pound under a hundred pounds, and six pence for the residue.

Escheator. An Escheator is to take for the execution of a *Diem clausit extremum*, or other Writ in one County, but forty shillings in all. And if the lands be not above five pounds, he is to take 23. H. 8. 17. but fifteen shillings in the whole. And where the lands are not found to be held in *Capite*, he is not to take any thing at all,

Coroner. 40. s. The Coroner is to do his office upon the view of a dead body by misadventure, without taking of any Fee. And upon the view of a dead body slain, he is to take but thirteen shillings four pence of the goods of the murtherer, if he have any, o- 5. l. 3. H. 7. 1. 1. M. 8. 7. therwise of the Town where he was slain in the day time, and suffered to escape.

Justice of Peace. 27. H. 8. 16. The Justice of Peace for the inrolment of a Deed, is to have no more than the Clerk of the Peace.

Ordinary. If the goods be not above five pounds, the Ordinary is to have for the probate of the will, or letters of Administration, but 6. d.

If above five pounds, and not above fourty 10 l. and so much as they take more than due. pounds, 2. s. 6. d. for the Ordinary, and twelve pence for the Scribe. If above forty pounds, then two shillings six pence to the Ordinary, and two shillings six pence to his Clerk. Or else one peny 27. H. 3. 8. for ten lines at ten inches. The like must be given F. l. P. 172. for the Copy of a Testament, or Inventory, and to take more is Extortion.

Ministers must take but four pence for the li- Minister 40. s. and as much above as he takes 5. Eliz. 4. 5. cense of a sick person to eat flesh on a Fish-day: two pence for a Testimoniall of a Servant departing from one place to another.

If any Ordinary, Parson, Vicar, or other, take money

money for a Mortuary where none is due, or more than due where it is due, this is Extortion. 21. H. 8. Chap. 8. Mortuary 40 s. and as much.

The Clerk of the Peace is to take but twelve pence for inrolling any bargain and sale of land not above forty shillings a year, but two shillings six pence if the Land be more: He is to take but two shillings in all for any License and Recognizance of a Badger, Drover, Kidder, or Lader, and for the registring thereof; and twelve pence for a License to shoot in a Gun to kill Hawks-meat, and but twelve pence for a Recognizance of him that taketh a Rogue into his service but one year. And he is to have nothing for the recording of a presentment of the monethly absence of a Recusant. Clerk of the Peace. 27. H. 8. 16. 5 Eliz. 12. 1 Jac. 27. 14. Eliz. 5. 3. Jac. 4.

If any Mayor take above a penny for sealing a Bushell, and all other measures above a half-peny; or above a penny for an hundred weight, or a half penny for half a hundred weight, or a farthing for a lesse weight. Mayors 7. H. 7. 13.

If after he hath once sealed, he take any thing for the sealing thereof again, or for the shewing thereof. And he is to take no money for any bills, &c. or examination of weights, &c. Clerk of the Market.

He that keepeth the Standard for the Shire-town, is to have for sealing a bushell one penny, for other measures an half-penny; for every hundred weight one penny, for halfe a hundred weight a half-penny, and for lesse a farthing.

The Clerk of the Market is to have four pence for marking and sealing a Bushell, two pence the half Bushell, one penny the Peck, and so for the rate; if he take a common fine, all this is Extortion. Cook. 1 part. of his Inst. 274. 275

If

Chap. 8.

Clerk of the Peace. 5. Ed. 6. 25.

If a Justice of Peaces Clerk take above twelve pence for a Recognizance of an Alehouse-keeper or Tipler.

Toll-taker. 2. & 3. Ph. & M. 7. 31. Eliz. 12.

The Tol gatherer is to take but one penny for one Contract, and setting down the names of the parties thereunto, and two pence for a note of the Entry.

Searchers. 27. Ed. 4. 4.

The Searchers of Tyle are to have for every thousand plain Tyle one penny, every one hundred roof Tyle one half penny, and every hundred Gutter-tyle and Corner-tyle one Farthing.

Extortion. 1 & 2. Ph. & M. 2.

If any man take above four pence for impounding one distresse.

Sect. 19. Officer Pound-breach.

If any Officer be opposed or abused in the execution of his Office.

If any man break or open the common pound, and take or let out any Distresse which was therein, or let a man out of the Stocks, or the like.

Instruments of Justice.

The instruments of Justice, as Stocks, Pillory, Pounds, and the like, must be had in all places; and they must be such as are usefull, and defaults herein are to be presented.

Sect. 20.

Now follow the Articles which concern the Trade of the Kingdome, buying and selling, and Tradesmen.

Trading and Traffique.

There are many Laws that concern Trading and Traffique, which may be thus reduced:

Apprentices.

1. None may exercise some Trades before they have been trained up in them.

Prices.

2. Tradesmen must sell true, not fasse and sophisticall commodities, especially provision. 3. They must sell at reasonable prices, and for moderate gain. 4. Bakers, Brewers, and such like Tradesmen,

must

must keep the Assizes. 5. All Tradesmen must sell by just weights and measures. Chap. 8.

The offences against these Lawes, are either in their entrance into their Trades, or in the use and exercise of their Trades.

Those that are in the exercise of their Trades, are; 1. In the persons selling, or to whom the things are sold. 2. In the preparing, making, selling, or in the commodities themselves, and things sold. 3. In the places where the things are sold. 4. In the prices of things sold. 5. In the measure or weight by which the things are sold. For the resistance of which distempers, some Lawes are made for prevention of the disease before, some for the correction and cure of the disease afterwards.

If any sell Wine or Ale without authority or License.

Wine. License. 7. Ed. 6 5. 5. & . Ed. 6. 25.

If any man have used or occupied any Art or Manuall Occupation used in the fifth yeare of Queen *Elizabeth*, which hath not been brought up therein seven years at the least as an Apprentice. Yet Church-wardens and Over-seers may use any Trade for the setting of their poor a-work.

Apprentice 10. l 5 Eliz. 4.

If any man during the time he hath used the Occupation of a Butcher, hath also used the mystery of a Tanner.

Butchers 6 s. 8. d. every day. 1 Iac. 23.

If any person (during the time he hath used the mystery of a Tanner) hath used also the mystery of a Shooe-maker, Currier, Butcher, or of any Artificer using the cutting and working of Leather.

Tanners lose the hides, and skins tanned. 1 Iac. 22.

If any by himself or other buy any wheat or otherwise, with intent to put the same in meale, flower,

Chap. 8.

Double value, two months imprisonment.

flower, or otherwise, without a licence first had in open Sessions, under the hands and seals of five Justices, *Act.* 23. *Oct.* 1650.

Brewers.

If any Brewer of Ale or Beer to sell, shall use the mystery of a Cooper, or make Barrells, &c. 23. *H.* 8. 4.

Lock all the Leather tanned.

If any person other then such as had a Tanhouse, 19. *Martii* 1603. and did then occupy Tanning of Leather, or hath been taught as an Apprentice, or hired servant, seven years in the mystery of tanning Leather, or hath been wife to a Tanner, or son of a Tanner, brought up in that mystery four years, or the son or daughter of a Tanner, or such person as hath married the wife or daughter of a Tanner (that left to the same his Tan-house and Fats) have tanned any Leather, or taken any profit by tanning thereof.

Six shillings eight pence for each hide or skin.

If any person being a Currier, hath (during the time that he hath used Currying) used the feat of a Tanner, Cordwainer, Shoomaker, Butcher, or other Artificer using cutting of Leather.

Three shill. four pence by the buyer.

If any one to whom any unlawfull Leather hath been given by the Statute, have given or sold the same to any person that hath sold the same again.

Malster. imprif till he give bond to obey. Cheater.

If any man forbidden to make Malt to sell, do not forbear.

If one sell another that which is not his own, and after the owner take it away from him that bought it.

Brewer 6. s. 8. d. the barrell. 4. Jac. 4. 5. Eliz. 5.

If any Brewer sell his Beer to any unlicensed Ale house-keeper, except it be for his own house.

If

Chap. 8.

If a victualler sell flesh on a fast day to one that hath no license to eat it.

If any one have bought to sell again, or sold any Deer, Hare, Partridge, or Pheasant, not brought up in his house. Every Deer 40. shill. Hare 20. shillings Pheasant 20. s. Partridge 20. s.

If any person have bought, contracted for, or bespoken any rough hide, or calves skin in the hair (except salt hides for the necessary use of ships) but such persons only as shall and may by this Act tan the same, or will tan the same. 1 Jac. 27. Hides.

If any person hath bought, sold, or bespoken any tanned Leather, not wrought into made wares, (other then shreds or necks of Sadlers and Girdlers) but such person only as will convert the same into made wares. Leather.

If any In-keeper or Victualler sell flesh on a prohibited day, or any man eat it on such day. In-keeper. 2 Ed. 6. 9. 5. Eliz. 1. 35. Eliz. 7. 1 Jac. 29.

If any Victualler sell, or offer to sell any corrupt or unwholesome Victualls, as flesh mesled, that died of the *Murrain*, or the like. Victualler sell corrupt victualls Fine.

If a Tanner put to sale a putrified or rotten hide. Tanner 3. s. 4. d.

If any arrowhead Smith have not well boiled, brased, and hardened at the point with steel, and marked with his mark such heads of *Arrows* and *Quarells* as he hath made. Arrow head Smith Loose the head Impr. Fine. 7. H. 4. 7.

If one sell another deceitfull wares, and know them to be so, and warrant them to be right; for otherwise (except it be victualls) it is not inditable by the common Law. Deceit in selling.

If any Butcher have gashed, slaughtered, or cut the hide of any Oxe, Bull, Steer, or Cow, whereby it is impaired; or have watered any hide, except in *June*, *July*, and *August*. Butchers 10 s. for every Hide. 1 Jac 22.

If any Tanner have suffered the same to lie Tanner.

Chap. 8. in the Limes till the ſame be over-limed: or have put the Hides in any Tan-fats before the Lime be perfectly wrought out of them: or have uſed any thing in tanning but Aſh bark, Oak bark, Tapwort, Malt, Meal, Lime, Culver-dung, or Hendung: or hath ſuffered his Leather to be frozen or parched with the fire or Sun: or have tanned with Cotton hides: or have not ſuffered the Hides for outer ſoal leather to lie in the Woozes twelve moneths, and for the upper Leather nine moneths: or have negligently wrought the Hides in the Woozes: or have not renewed their Woozes as oft as was requiſite: or have put to ſale any tanned Hide not wrought according to the Statute.

Loſe the hides or value.

Tanner loſe the hides.

If any Tanner have raiſed with any mixture any Hide to be converted to Backs, Bend Leather, clouting Leather, or any other ſoal leather except the ſame be fit for that purpoſe.

Tanner.

For every Hide or piece of leather 6.ſh. 8 d. and for every 12. Calves or ſheeps skins 3.s 4.d and the hides or skins, or their value.

If any put to ſale, or otherwiſe depart with any tanned Leather (red and unwrought) but in open Faire or Market in the places therefore prepared, unleſſe it hath been firſt lawfully ſearched or ſealed, in ſome open Fair or Market; or put to ſale any Leather before it hath been firſt ſearched or ſealed according to the Statute.

Tanner ſo much leather.

If any Tanner put to ſale any Leather inſufficiently, or not throughly tanned, or not well and throughly dried, and the ſame ſo found by the Triers of Leathers appointed by the Statute.

Tanners ten pounds, pillory three market dayes.

If any have ſet his fats in Tan-hills, or other places where the Woozes or Leather to be tanned in the ſame may take any unkind heats, or hath put any Leather into any hot or warme Woozes.

If

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If any Currier have curried any Leather but in his owne house in a Corporate or Market Town. Or have curried any Leather not well tanned, or not throughly dried after his wet Season, or have used in such wet Seasons any deceitfull means to corrupt the same; or have curried any outer soal Leather with any other stuff then hard Tallow, or lesse of that then the Leather will receive; or inner soal leather, or over soal Leather, but with good stuffe, being fresh and not salt, or have not liquored them throughly, or have scalded or shaven too thin, or gashed in shaving, or otherwise, or not wrought sufficiently any Leather.

Currier 6.sh. 8 d and the value of each skin marred (except gashing in shaving) and for that double so much as the leather hurt.

If any Shoo-maker have made any Boots, Shooes, Buskins, Startups, Slippers, or Pantofles, or any part of them of *English* Leather wet curried (other than Deer, Calve, or Goat skins, dressed like *Spanish* Leather) but of Leather well tanned, or curried, or well tanned only, and well sewed with threed well twisted, waxed, and rosened, with the stitcher hard drawn with hand Leathers, without mixing Neats and Calves Leather, in the over-leathers thereof: or have put into any Shooes, Boots, *&c.* any Leather made of Sheeps skin, Bull hide, or Horse hide, or into the upper Leather of any Shooes, Startups, Slippers, or Pantofles, or into the neather part of boots (the inner part of the shooe only excepted) any part of the womb, neck, shank, flank, pole, or cheek of any hide, or into the utter soal, other than the best of the Oxe, or steer hide; or into the inner soal, other than the wombs, neck, pole, or cheek; or in the Treswells of the double soaled shooes, other than the

Shoomaker.

Chap. 8. flanks of any of the ſaid hides; or have put to ſale in any year between the laſt of *September*, and 20. of *April* any ſhooes, boots, buskins, ſtartups, ſlippers, or pantofles meet for any perſon above four years old, wherein hath been any dry *Engliſh* Leather (other then Calve or Goat skins dreſſed like *Spaniſh* Leather.)

Goldſmith. If any Gold-ſmith or worker of ſilver have wrought any ſilver that is not ſo fine in allay as the ſterling; or have not ſet his mark upon his Work before he ſet it to ſale; or if any have guilded any ſheaths, or any metalls but ſilver, ſaving the ſpurs of Knights, and the apparell of a Baron, or ſuch as are above that eſtate.

Double value.

1 H. 6. 14.
8. H. 5. 5.

Tile maker. If any Tile-maker have not digged and caſt up his earth for Tile till after the firſt of *Nov.* or have not ſtirred and turned it till after the firſt day of *February* following; or if he have wrought it before the firſt of *March* following, or if he have not wrought, and tried it from ſtones, veins, and chalk; or if he have made, or any other put to ſale any plain Tile under ten inches and a halfe in length, ſix inches and a quarter in breadth, and half an inch and a quarter in thickneſſe, or any roof-tile under thirteen inches in length, and half an inch and half a quarter in thickneſſe, with convenient deepneſſe; or any gutter-tile under ten inches and an half in length, with convenient thickneſſe, breadth, and depth.

For every hundred of plain tile 5. s. and every hundred of roof tile 6. s. 8. d.

7. Ed. 4. 4.

If any ſell meal in any ſhop within twenty miles of *London*, or within any other place of this Common-wealth, but in the publique Market place uſually for that purpoſe, or ſell meal in any other quality then as it comes from the mill. If

they

mix it, or if any use any bolting mill or other instrument in the dressing or sifting any corn or grain, with intent to sel the same in meal or flower Ord. 23. *Octob.* 1650. Treble value, and two moneths imprisonment. Chap. 8.

If any Malt be made of Barley but in *June*, *July*, and *August*, to be sold, but what hath three weeks time in the Fat, Floor, steeping, and sufficient drying, and in these moneths seventeen dayes; and this hath been done within one yeare last past. Malters 2. s. every quarter.

If any have within a yeare mingled any Malt not sufficiently made, or made of mow-burnt or spired Barley, with good malt, and after put the same to sale. The like. Constable with the advice of one Justice of Peace may sell deceitfull malt.

If any within a year have sold Malt, till it be sufficiently and well fanned, trodden, and rubbed, so that half a peck or more of dust may come out of a Quarter. 20. d. a quarter 2 & 3. E.6.10. 27. El. 14. 1 Jac. 25. 22. Ja. 28.

If any have sold or set forth candles, or other works of Wax to sale. Chandlers.

If any Cloth-maker have not set his seal of Lead to his cloth, thereby declaring the just length thereof to be tried by the water. Or have put in any flocks, nails, or thrumbs into any broad cloth. Clothiers Fine. 5 pounds by distresse, and for want commitment. 3. Ed. 6. 2. 21. Ja. 18.

If any have stretched any cloth above one yard and a half in length, or one quarter of a yard in breadth, or have put to sale any cloth that have shrunk more in the wetting than is aforesaid. Or have stretched any narrow Streit or Kersie above one yard in length, and a quarter of a yard in breadth, or have put any such to sale, that have shrunk more in the wetting, or have put in deceiveable stuff into the cloth.

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If any uſe any Tenters to ſtretch their cloth.

Deface them, ſel them, mozeys to the poor. 39. El. 20. 23.

If any Dier of woollen cloth have died any brown Blues, Pewks, Tawnies, or Violets, that were not perfectly boiled, grained, or maddered upon the Woad; and ſhot with good cork, or Orchall ſufficiently. 2 *Ed.* 6. 2. Or in dying of any Cloth, Wooll, Yarn, Grogerain, Buffins, or ſilk, or any thing made of woollen Yarn. Or if any Log-wood or Block-wood, with other ſtuffe in Dying.

Diers of cloth 20. ſhillings.

20. pounds and and pillory. 39. Eliz. 11. 23.

Dyers of wooll

If any perſon have dyed any Wooll for cloth, called Ruſſets, Marbles, Grays, Bays, or ſuch like; or for Hats or Caps, unleſſe it were perfectly woaded, boiled, and maddered; or have dyed with Brazill, to the intent to make a falſe colour in any ſuch cloth or Wooll: or have put any flocks, chalk, ſtarch, or other deceiveable thing upon any cloth, (except certain *Devonſhire* and *Cornwall* Streights.) For all theſe Deceits ſeem puniſhable by the Common Law.

40. ſh. a cloth, or wooll to make a cloth

20. ſh.

40. ſhill. 3. Ed. 5 2.

If any have occupied any Iron Cards, or Picards in rowing of any woollen cloth: or have ſold any cloth by any leſſe meaſure than after the true content thereof, to be met by the Yard, every Yard being an inch more by the Rule. If any ſell any cloth being preſſed, to be occupied and worn in the Realm.

Iron cards &c. loſe them all, &c 10. ſhill. 6 ſh 4. d for every yard loſſe of cloth or the value. 4 & 5 E. 6 & 8.

Loſſe of it or the value of it. 5 & 6 Ed. 6.

If any preſſe any kind of cloth with the hot preſſe, or in any deceiveable manner, but only with the cold preſſe, 5 & 6. *Ed.* 6. 6. Or if any uſe any other deceit in making cloth contrary to 4. *Jac.* 2. 21. *Jac.* 18. or any other Statute.

Linnen cloth, loſe cloth, impriſonment moneth Fine. 1 Eliz. 12.

If any have uſed any racking, beating, or caſting of any deceitfull liquor or other mean, with

with any kind of linnen cloth, whereby the same becomes deceitfull. Chap. 8.

No Cooper may make any Vessell for Beer or Ale to be sold but according to the measures appointed, unlesse he set a mark upon him how much it is. Cooper. 23 H.8.4.

And they must sell them at such prizes as the Justices of the Peace at their Quarter Sessions after *Easter* shall set down and proclaim. 3.shill.4.d.for every barrell, kilderkin and firkin. 8. Eliz. 9. Prices.

If Butchers, Fish-mongers, Inholders, Tipplers, Brewers, Bakers, Poulterers, and other Victuallers do not sell at reasonable prices, having respect to the prices they buy. 13.R.2.8 23.Ed. 3.c. 21. Jac. 22. 5 Eliz. c. 27 Eliz 11. 28.H. 8. 14. 37.H 8. 13. 34.H.8.7.

If any sell Wine in grosse or by retail, above the prices set by the Lord Chancellor, Treasurer, and others appointed to set it, and declared by the Kings Proclamation, if any be.

If any Brewer or Victualler take more for their commodities than the prices the Justices of Peace do set down. 23.H 8. 2. 13 R.2 8.

If any Inholder or Hostler take any thing for Litter, or take excessively (that is, more then a reasonable gain, having respect to the Markets) for hay, horse-bread, or any kind of provision for man or beast. Or if he living in a great Town or Village, being a throughfare, wherein is a common Baker, that hath been seven years at the Occupation dwelling, make his horse bread himself, otherwise he may make it himself; but whoever make it, he must make it of due Assize and weight. Inholder and Hostler. 1 Offence fine, 2 offence imprisonment one moneth without baile. 3 offence pillory without money. 4 offence forejudger of Innekeeping. 13 R.2 8. 4. H. 1. 25. 21. Jac. 21.

The increase of Choughs, Crows, and Rooks, tends to scarcity, and raising of prices. Every man that hath land in the countrey is to do his endeavour to destroy them. Any man with li- Crows.

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24. H. 8. 10.

cense of the Owner of the ground may destroy them, and then carry them away. If any Occupier of a mannour, house, or land of five pounds a year value refuse to pay for the taking of them upon his ground.

Conspiracy of Victuallers, &c. 1. offence ten pounds. 2 offence twenty pounds 3. offence forty pounds. 2 & 3. Ed. 6. 15.

To prevent which evill in Traffique, you are to inquire. 1. If any Victuallers have conspired that they will sell their commodities but at certain prices; if it be done by a Corporation or Company, they lose their liberty.

Ingrosing commodities.

2. If any man do at once keep above two thousand sheep of all sorts, contrary to the Statute of 25. *H.* 8. 13. for the getting of so much of one thing into one hand tendeth to the enhansing of prices.

Forestalling.

3. If any buy or agree for any thing coming towards a fair, Market, or great Town; or moveth the Seller to raise the price; or doth disswade him from bringing in the commodities to be sold in those places, this is Fore-stalling.

Regrating

4. If one buy up commodities, as Corne, Wine, Butter, Cheese, Fish, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs, Geese, Capons, Hens, Chickens, Pidgeons, Conies, or other dead victualls whatsoever in any Fair or Market, and sell them again there, or in any other place within four miles thereof, this is Regrating.

Ingrosing

5. If any get by buying or promise taking, otherwise than by demise of Land, or Tithe, any corn or grain, or dead victuals into his hands with intent to sell the same again, this is ingrossing; and these offences are specially named in the Commission.

If any by himselfe or other, directly or indirectly

directly buy any wheat or other grain, with intent to sell the same in meale, flower, or otherwise, but by license duely had so to do, under the hands and seals of five Justices in the Sessions, he shall be taken for an *Ingrosser*. Act. 23. Oct. 1650. Chap. 8.

But the buying of Barley and Oats (without fore-stalling) to make Malt and Oatmeal. And such Victuallers of all sorts, as Butchers, fishers, and the like, as buy victualls without fore-stalling and sell it again by Retail, according to their Trades. The buying of provision by Inholders and Victuallers, and spending of it in their houses. The reserving of Rent Corn on a Lease of Land; the buying of victualls to victuall a ship or fort; the buying of seed corn, when he doth sel or put to sale as much again; nor the transportation of corn from one Port to another by water; nor the buying of corn, fish, butter, or cheese, by a Badger, so he sell it within a moneth. Nor the buying and selling of cattell by *Drovers*, (licensed, and not abusing their license) so they sell them forty miles off. 5 & 6. Ed. 6. 6. 1 Jac. 25. 21. Jac. 18. 5. Eliz. 5. 31. Eliz. 5.

He that is charged upon these Statutes must be charged within 2 years after the offence is done.

If any have gotten into his hands, or ingrossed any Oak bark with intent to sell the same again. 1 Jac. 22.

If any have within two years brought any Oxen, Routs, Steers, Kine, Heifers, Lambs, Sheep, Goats, or Kids living, and sold them again within five weeks. Double value. 5. Ed. 6. 14. 6 s. 8. d a hide 1. Jac. 22.

If any have forestalled any hide, or bought any hide out of the Market or Fair, unless it be of such as killed beasts for their own provision.

If any out of *London*, *Westminster*, or *Southwark*,

Chap. 8. *wark*, buy to ſell again, butter, or cheeſe, unleſſe he ſell it again by retail, and then if it be above a wey of cheeſe, or barrell of butter, 21. *Iac.* 22.

Double value. 3. & 4. Ed. 6. 21 Jac. 22. Value of the thing ſealed. 4. Eightfold damage.

If any Farmers ſelling butter and cheeſe in *London*, ſell and weigh by other weights, then with the weights ſealed according to the Standard.

If any pack up butter in Firkins for ſale, and do not ſet upon the Firkin when it is ſeaſoned a viſible mark of the weight of the core of the Firkin, or put up leſſe then fifty ſix pound of neat butter in every Firkin, or leſſe then fourteen pound in each pot, or put up old butter with new, or whay, or corrupt butter, with creame butter.

Forfeit the thing or value of it, and 3 ſh. 4. d.

Or if any upon the Firkins of butter upon the ſale thereof, do not ſet the two firſt letters of his name, or his own particular mark.

3. ſh 4 d. Act 12. of March 1649.

If any pack up butter for ſale in an unſized cask, and do not ſet the juſt weight of the cask after the ſeaſoning viſibly upon it, and his own mark, or two firſt letters of his name.

This Act to continue but til the 25. of March 1652.

But no man may be queſtioned for any of theſe things, beyond a yeare after the offence done.

Another thing that furthereth ſcarſity is Tranſportation.

If any tranſport beyond Sea by any Veſſell any Fullers earth, clay, Tobacco-pipe clay, or other earth or clay which may be uſed in fulling here, or any be privy to it, being owner of the ground, and do not diſcover it to a Juſtice of Peace.

Another thing that furthereth ſcarcity is tranſportation.

If any have tranſported any corn, malt, beer, cheeſe,

Chap. 8.

cheese, or wood, unto any place beyond the Seas, except wheat be at one pound twelve shillings the quarter, Rye at one pound, Pease and beans at sixteen shillings: barley or malt at sixteen shillings, or if he have license to do it, and exceed it, he loseth three times as much, and is to be in prison a year. 5. Eliz. 5. 21 Jac. 28. 3. Jac. 11. Transportation, owner of the ship forfeit it, if he do know of it, owner of the Corn lose the value of it, Master and Mariners lose their goods, and imprisonment a yeer.

If any buy or sell by unlawfull weights or measure, that are not like and equall with the Kings Standard. Or if one use double weights in buying and selling, the one to buy with, and the other to sell with; and if any unjust weights or measures be found, they must be burnt. Weights and measures forfeit and burn the Weights, &c. Fined in discretion, above 6 sh. 8 d. for the first offence, for the second 13 sh. 4. d. for the third 20. s. and pillory. 11. H. 7. 4. 28. H. 8 14. R. 3. 13.

The tun of wine must be 252. gallons, the But of Malmsey 126. gallons, the Pipe 126. gallons, the tertian or Poncheon 84. gallons, the hogshead 63. gallons, the Teerce 41. gallons, the half Hogshead 31. gallons, and half, and the Rundlet 15. gallons and half. So also of the measures of oyl, and none may sell under this in measure, nor till their vessells be gawged by the Kings Gawger.

If any Millard take excessive Toll, he is to have the twentieth, or twenty fourth grain, according to the strength of the water, and custome of the place, if it be reasonable. Millard.

The Millards Toll dish must be according to the Standard.

For the better understanding of this matter, these things are to be known: 1. That in the principal or shire Town of every County there ought to be a Standard of Brasse for weights, and measures, according to the Standard of the Exchequer, there to remain with the chief officers of the Town, according to which every City, Burrough, and

Chap. 8. and market Town in the County, ought to make their common weights and measures to be marked by him that keepeth the Standard. 2. In every City, Burrough, and market town there ought to be a common ballance, and a common bushel, and common weights sealed, and according to the Standard in the Shire Town. 3. No man within any city or market town, ought to buy or sel with any weights or measures except they be sealed as aforesaid, nor out of market Townes, except their weights and measures be equall with the Standard, if they must not be sealed, for so some think they must be. 4. Ale and beer must be sold by one and the same measure.

11. H. 4. 12. H. 7. 5.

10. pound a City, 5. pound a Burrough 40 s a market town.

27. Ed. 3. 10. 17. H. 7 4. 3. H. 6. 5. 1. Jac. 9. Victualler. 31. H. 3. 13. R. 2. 8.

If the common Baker, Victualler, Brewer, and Tipler, do not keep the Assize of bread and beer, according to the price of corn.

If any by himself or other sell wares and buy them again within three months at the same price and know them to be the same. Or take more for any loan, giving day, then after the rate of ten pound for the hundred.

Usury. Treble value. Fine. Impr. As an aider in a Premunire. 13. Eliz 28. 37. H. 8. 9. 21. Jac 17.

If any Broker have his hand in such a bargain.

If any take above 8. l. *per cent.* or helps forward in this contract, if it be under 10. l. *per cent.* it is not punishable, but the interest is lost.

Sect. 21.

To this we may add as an appendix thereto, the offences concerning labourers, servants, and apprentices, without the help of whom, trades cannot be upheld. And the offences concerning highwaies, which being impassable, it doth much interrupt the free Trade of the Kingdome.

Labourers and Artificers.

There are divers Laws concerning Labourers, and Artificers, and therein also of their relations

as

as Masters and servants, they may be reduced to these heads. 1. Some are forbidden to intermeddle with some works, wherein they have not been trained up. 2. They may not make combinations amongst them for the limitation of their work. 3 They must do their work truly and fully. 4. They may not depart from their work before it be done. So that the Laws concerning these things have respect to three times. 1. Their coming together. 2. Their continuing together. 3. Their parting asunder. The particulars hereof that you are to be charged with, follow. Chap. 8.

If a Justice of Peace require such persons as are fit to work by day at Harvest, for the preserving thereof, and he refuse. Imprif. two dayes and a night in the stocks. 5. Eliz. 4.

If meet persons required by the Justices of the Peace, to serve as apprentices, or otherwise to husbandry, and other arts, refuse to submit to them. Imprif. till satisfaction.

If any unmarried woman of twelve years old, and under forty, being required by two Justices, to serve by the year, week, or day for such wages as they shall think fit, refuse to obey. The like.

If any person married, or unmarried under 30. years of age, having been brought up and required of them to serve in the trades of cloathing, Wool-weaving, tucking, Fulling, Clothworking, Shearing, Dying, or in the trades of a Tailour, Shoomaker, tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Furrier, Currier, Sadler, Spurrier, Turner, Bowyer, Fletcher, Arrowheadmaker, Butcher, Cook, or Miller, and they refuse to obey the order of the Justices of Peace herein, not having fourty shillings a yeare in Lands, or fourty pound in goods, or some farm in Tillage, 5. Eliz. 4. The like. Persons compellable to serve.

nor

Chap. 8. nor being retained before by some other person, refuse so to do.

Apprentice 10. pound.

If any man take upon him to exercise these trades, not having been Apprentice to it seven years.

Misdemeanour of Master and Servants 5 l. and imprif 10. dayes without Baile 5. pound.

If any man take an Apprentice contrary to Law, Or if any of the tradesmen before named hire any Servant for lesse time then one year, or abuse his Servant or give more wages then the Statutes appoint, or take the Servant coming out of anothers service, without a Testimoniall, or refuse to stand the order of the Justice of Peace in any matter of difference between him and his servant, or put away a servant without a quarters warning, though it be at the end of the tearm, or will not pay the wages assessed at *Easter* Sessions by the Justices of Peace.

Ten shil. by diresse and sale. 5. Jac. 6. 5. Eliz 4.

If any difference be between a Master and his servant, or Apprentice.

Order.

And the Justice of Peace give order in it, and the servant or Apprentice refuse to submit to it.

Commitment til he be bound to serve. Imprif.

If a servant promise to serve, and doth not.

If the servant refuse to serve for wages appointed by the Justices, or do not his work honestly, or promise to do so and do not, as if my Plowman drive my cattel, or ride my horses to death, or refuse to do his work, or take greater wages then is appointed by the Statute, or if he make an assault or affray upon his Master or him that hath the oversight of him. If Garders, Weavers, Sorters, or Spinners, imbezzle any wooll or yarn.

Imprif. 21. days.

Imprif. a yeare, or other punishment but life or member, they and their receivers to give satisfaction, or be flocked or whipped, 7. Jac. 7.

If Labourers that work day work, do not so many hours by the day, *viz.* from *March* to *September* from 5. to 7. the rest of the year from day light to day light. Or if any Artificer or Labourer

Imprif. moneth, and 5. pound.

bourer depart before his work be finished. **Chap. 8.**

If a servant or Apprentice go away before the end of his tearme, without allowance of a Justice of Peace, or depart at the end of his tearm, not giving to his Master a quarters warning, or go away at the end of his time to any other parts without a Testimoniall of his Master. Or if any Artificers or Labourers have conspired together, that they will not do any work but at such a rate, or for such a time, or in such a manner.

Commitment til he serve, unlesse he were with a Justice of Peace, imprisn. till he get it, which if not done in 21. dayes, to be punished as a vagrant, but this is to be intended of the Servants in Husbandry, and the rest named before. 2. Ed. 6. 25.

If the Clothier do not pay his Carder, Spinner or other Labourer in good money, or if he deliver excessive weights to his workmen, &c. or the Carder, Weaver, or Spinner do not his duty in his Trade, or refuse to pay the wages assessed, 1 *Iac.* 16.

Clothiers, 3. times as much, 6. d. and Commitment till payment double recompence, and commitment till paid. 23 by distresse and sale.

If the Highwaies and Bridges be not repaired, and made passable, the places wherein they are defective are to be indicted. *Sect.* 22.

Highwaies. Fine 40 sh.

If the Constables and Churchwardens do not make Supravisors.

If the Supravisors appointed do not their duty. Or the Parishioners with their Men and Plows, do not their work appointed. Or the Lord of the Soyle do not enlarge the way from Market to Market; so that no Bush, Dike, nor Tree, except great Trees, be within two hundred foot of each side thereof. Or the owners of the ground adjoyning, do not scoure, cut and cleanse the Ditches, Trees, and Bushes adjoyning.

10. s. every day for plow 12. d. for a man. 2. and 3. Ph. & M. 8. 5. Eliz. 13. 18 Eliz. 9. 22 H 8. 5. Ten shil. and for other grounds adjoyning to the grounds next to the high-ways, 12. d. for every Rod.

And the High-wayes by the Statute of *Winchester* ought to be forty foot in breadth. *Sect.* 23.

Drunkards.

The next thing you shall enquire of, is, of persons of evill Name and Fame.

If

Chap. 8. If any man be a common drunkard, or a common haunter of Ale-houſes, eſpecially if he ſpend much there, and have little: Or keep a houſe of common Bawdry; or uſually frequent ſuch lewd places, or the company of lewd perſons, or commit Adultery or Fornication, or have begotten a Baſtard child, or be the reputed Father of ſuch a Child, or do before the birth thereof (being accuſed) convey himſelf away, or cauſe the mother after the birth, to convey her ſelf away, and leave the child. Or if one be a common *Barretor*, that is, one that doth commonly ſtir, or maintain ſuits of Law, or quarrells in any Courts, or in the Countrey, or be an *Eveſdropper*, that is, one that doth hearken under Windows, or the like, to hear news, and ſo tell it abroad, to breed debate amongſt neighbours; or if he be a night-walker, that is, one that ſleepeth by day, and walketh by night; or one that doth commonly go in meſſages for Theeves, or is common Hedge-breaker, and after he hath been puniſhed for it, doth offend again. All theſe are perſons of ill behaviour, and muſt give ſurety for their good behaviour.

Barretor.

5. Car. 4.
18. Eliz. 3.

You are to enquire of all ſuch as having Licenſes, do keep any Ale-houſes, or Tipling-houſe, and be bound by Recognizance againſt the keeping of unlawfull games in their houſes and for the keeping of good order, whether they have done any thing to break their Recognizances.

5. & 6 Ed. 6. 25.

Drunkenneſſe.

The loathſome and odious ſin of drunkenneſſe, being the root and foundation of many other enormous ſins, as bloodſhed, ſtabbing, mur-

murder, swearing, fornication, adultery, and such Cap. 8.
ke, to the great dishonor of God & our nation, overthrow of many good arts and trades, disabling of divers workmen, and general impoverishing of many good subjects, abusively wasting the good creatures of God (as the Statute speaks) is a sore evil, and continueth and increaseth stil.

You are to take care of the remedy.

If there be any Inn that is disorderly, and a common Nusance or more then are needfull, to the hurt of ancient and wel-governed Innes.

Fine or suppresse it upon an indictment.

If there be, 1 any that sell Ale without License. 2. Any that being licensed, sell lesse then one Quart of the strongest, and two Quarts of the smallest for one penny. 3. If any that sel by unlawful measures. 4. If the Ale-men suffer any to sit tipling in his house: And by this it is to be enquired, whether the Ale-house-keeper have forfeited his Recognizance. 5. If any have within six months last been drunk. 6. If any have within this time, sit tipling in the Ale-house, having no calling to be there.

20 shillings by sale of goods after three days done p id, not paid in six days whipped. twenty shillings to be levied by distresse and sale after six days, for want of distresse Commitment till payment. Ten shillings to be levied as before. Five shillings within a week, to be levied within a week by distresse and sale, or for want, six hours in stocks, Good behaviour. Three shilling four pence to be had as before, in four days, or four houres in the stocks.

1 Jac. 9.
4 Jac 5.
21 Jac. 7.
4 Car 5.
7 Ed. 6 5.

For the Inn-keepers offence in all Cases, he is disabled for three years for keeping any Ale-house. For selling without License, the second offence is, the house of correction a month: the third offence is the house of Correction till he be discharged at Quarter Sessions. If any not having the grant of the Keepers of the Liberties, sell Wine without License of Justices at Quarter Sessions.

Wine five pound a day. Fine.

Sect. 24.

The next Articles are touching such things which concern the strength of the Kingdom.

Musters. Fourty shillings imprisonment ten days.

If any commanded to muster before them that have authority, have absented themselves without cause, or have not brought their best Furni-

Cap. 8.

51 imprisonment one moneth, put out of his place.

Impr. without bail till satisfaction.

4 & 5 P. & M. 3

1 Ed. 6. 2

Archery 33 H. 8. 9

8 Eliz. 10

3 Car. 4

ture and Armes to the Muſter; or if any authorized to muſter, have taken a reward to ſpare any; or if any that hath the charge to do it, doth not pay his ſouldiers wages, conduct or coatmony. Or if any Captain for gain licenſe his ſouldiers to depart, or demand or take more money then his due; or if any do willingly purloyn or do away any horſe or harneſſe delivered to him, or wherewith he was ſet forth, and cannot ſhew how he did loſe it.

The uſe of ſhooting in the long bow, (ſaid to be in the Statute of 33 *H.* 8. 6. the ſurety, ſafegard, and continuall defence of this Realm, and an ineſtimable dread and terror to the enemys of the ſame) is to be inforced. You are therefore to ſee that the Bowyer out of *London*, *Wiſtminſter*, and *Southwark*, that makes a Bow of Ewe, muſt make four of other wood.

6 s. 8 d. every month in default.

Maſters and parents to pay for children & ſervants.

Imprisonment til fine

That every one have bows and arrows according to the Statute of 33 *H.* 8. 9. That is, every one from ſeven to ſeventeen, his bow and two arrows; and from ſeventeen to ſixty yeers old, his bow and four arrows.

That they do uſe them, and exerciſe themſelves and their children in ſhooting. That one under 24 yeers old, that doth not ſhoot at a ſtanding prick, or being above, that doth not ſhoot any mark under two hundred and twenty yards with any prick-ſhaft or flight.

That no ſtranger uſe this exerciſe, or convey away theſe weapons without the Kings licenſe, 33 *H.* 8. 9.

Buts 20 s. a month.

And to ſee that every Tything have their Buts, and to preſent the defaults. And the better to hold them to this exerciſe, to reſtrain them from other exerciſes which are prohibited. You are therefore to enquire.

If

If any one keep in his house, or carry any Hand-gun, not a yard in the stock and gun, or any Hagbut or Demi-hawk, not three quarters of a yard in the stock and gun; or (not having in his wives or his own right an hundred pounds a year) carry or have in his journey any Crosse-bow bent, or hand-gun, or hagbut, or Demi-hawk charged with powder, &c. except in time of war, or by himselfe or servant shoots in such a gun at any thing but a bank, or for defence of himselfe or his house within, or within a quarter of a mile of a City or a Market town, unlesse it be one licensed to kill Hawkes meat; or within five miles of the Sea. Cap. 8. Guns Ten pounds to be estreated in the Exchequer. Imprisonment till payment.

Or if any under the degree of a Lord of the Parliament, shoot in any Hand-gun, within any City or Town, at any fowl or other mark, upon any Church, house, or dove-cote, or any other place, with any hail-shot, or more pellets then one at one time, or at any Pheasants, Partridges, &c. And yet publick officers for the execution of Justice, may carry and use guns. Ten pound 33 H. 8. 6 & 3 Ed. 6 14 33 Eliz. 10 1 Jac. 27.

Concerning matters of pleasure.

If any May-poles be set up or continued, the parish is, or the officers are to forfeit 5 s. a week till it be taken down. *May-poles* Ord. 6 April 1644.

If any one have hawked or hunted with his Spaniels in any other mans grounds where any eared or codded corne hath been standing or growing, before it hath been put in shocks, without the consent of the owner of the ground: or hawk between the first of *July* and last of *Aug.* or (not having ten pounds in his own or wives right in fee, or thirty pounds a year for life above all charges, or two hundred pounds in goods; or not being the son of Knight, or greater per- Hawking, hunting, killing of Hares, Pheasants, and the like 40 shillings Cõmitment. 3 months or pay 40 s. for for every hawking, & 20 s. a pheasãt or a par-

Chap. 8.

tridg 7 Iac. 11 Imprisonment: til 40 s paid, 1 Iac. 27. Imprisonmeat till 20 s be paid, For pheasant ten shill. 1 or partridg five. be bound not to do so again. Commitment three months, unlesse he pay the mony forthwith to the church-wardens. Or after one months commitment to give the Recognizance of 20l not to do so again. Imprisonment two months. Treble damages Good behaviour 7 years Surety for it

1 Iac 27
7 Iac 11
23 Eliz 10
25 H 8 11
14 H 8 10
11 H 7 17
5 Eliz 21

unlawful games. 40 s a day

12 R 2,5
11 H 4 4
17 Ed 3,4
33 H 8,9

person, or son and heir of an Esquier) have kept a *Grey*-hound or setting-dog; or have with any Gun, Bow, or Net, or otherwise, killed or taken Pheasant, Partridg, House-dove, Pigeon, Hearn, Mallard, Duck, Wigeon, Growth, Heath-cock, or any such fowl, or kill or take Hare with Harepipes or otherwise, or kil or trace any Hare in the snow, or kill any Partridg or Pheasant between *July* 1, and *August* 31. or take or spoil out of or in the nest, the eggs of any Pheasant, Partridg, Swan, or wild-fowle used to be eaten, but he that hath forty pounds in Fee, or Freehold, or fourscore pounds in Lease, or is worth in goods foure hundred pounds: or his servants may take Pheasants or Partridges in the day time in his own grounds between *Michealmas* and *Christmas*.

If any destroy the head of any Pond, and take away the Fish, or hunt in any warren, or park inclosed, and take away or spoile the game, or take away Hawks or their Egges.

If any use any Guns, or *Bows*, or kill Deere or Conies, or keep Hays and purse-nets, Ferrets or Cony-dogges, unlesse he have 40 l. inheritance *per annum*, or is worth 200 l. in goods, or have warren and ground inclosed, the profit whereof is worth 40 l. *per annum*. But he that hath an 100 l. a year, may keep them for his own use.

If any for his private gain, keep a house or place of unlawful games, as Bouls, Coits, Cloysh Kailes, half-bouls, Tennis, Dicing, Tables, Carding, Logate, Shove-groat, casting the stone, Kails, handbal, footbal, clash, quickboord, or any other unlawfull game now invented, or hereafter to be invented, Bear-beating, Bul-baiting, stage-playes, 1 *Car.* 1.

If

If any use or haunt such a house, and there playeth at any one of these games. Some think all games, except shooting, are unlawfull. Chap. 9. 6s 8d. a time

If any artificers, craftsman of any Handycraft, husbandmen, Labourers, Mariners, Fishermen, Watermen, Apprentices, servant at Husbandry, Journey-men, or servant of Artificer, Mariners, fishermen, or watermen, or any serving-man, play in any place at any such game, out of *Christmas* only, & in their houses, or servants in their Masters houses, and by their Masters license, or servingmen, within the precincts of their Masters houses, and by their Masters license. 20s a time

If any person play at Bowls in an open place out of his Garden or Orchard. 6s. 8d a time

Any Justice of Peace may enter into the places they suspect to keep such houses, or where men play at such Games; and finding it, may imprison the keeper of the place til he give surety no longer so to do: and he may imprison the gamesters without bail, til they be bound in such sum as he shal think fit, not to play again.

The Articles concerning the Poor follow. *Sect.* 25

The poor are to be provided for. And for this you are to enquire, if the Over-seers & Churchwardens do their duty in taking care for them, according to the Statute of 43 *El.* 2. And if Parents or children that are able, do relieve their impotent Parents or Children, according to the Justices of Peace Order at the Quarter Sessions. Poor

If any run away, and leave their charge upon the Parish, or threaten so to do. To be punished as incorrigible Rogues, to be sent to Bridewel til security, to save the Parish. 7 Ja. 4

If any refuse Apprentices being put upon them by the Overseers, Churchwardens, and Justices of Peace.

To this head we may reduce the Law against

Chap. 8. Cottages and Inmates, being made for the pervention of the increase of the poor.

Cottage ten pounds creating fourty shill. continuing.

If any build up any new house, or convert any old house not before a dwelling house, to a Cottage, and do not lay four Acres of Land near adjoyning to it, to be perpetually used with it: or if any do continue such an unlawful house so built for one month: but Cottages in Market Townes, or about Mines or Quarrs, or where Brick or Tile is made, not being above a mile from the Workes, and used to that end: or for a common Herds-man, or Keeper, or Shepherd, or built by the Order of Sessions, are not forbidden. The building or conversion must be after this Statute. But if an ancient Cottage wholly be decayed and reedified, this is the offence.

31 Eliz 7.

Inmates ten shill.

If any take in any Inmate more than one household into a Cottage: or if any do continue such an inmate for one month. But such as are so placed by Order of Sessions with leave of the Lord, and by the Charge of the Parish, are not forbidden by the Statute. Herein know, No man is to be accounted an Inmate or Under-sitter, but he that is in a Cottage. 2. Such cottages as were before the Statute, as well as those which are after; and such as have four Acres annexed as well as those which have not, are within this Statute. 3. Inmates within cities and burroughs are within this Statute also, as well as others. *Cook 2 part Inst. 739.*

31 El. 7

Sect. 26 Calves.

The next thing concerneth the preservation and breed of things.

If any (feeding for the most part of the year above one hundred and twenty sheer-sheep on his Grounds, that are meet for milch Kine, and wherein

wherein no person hath any Common) have not for each sixty such sheep, reared on Calfe during the time of his keeping the sheep; or if he feeding on his severall pastures above 20. Oxen, Ronts, Steers, Skrubs, Heifers, or Kine, have not for every such ten beasts kept one milch Cow; and for every two Kine reared up and weaned yearly one Calf, except it chance to die. But this law is not to be extended to the Cattel a man doth spend in his own house. Or one keep stoned horses upon Commons of two years old, and not fourteen handfulls high; and any Horse that is so, any man may seize and have, after he hath called the constable and three of the Neighbours to measure him. But if a horse be broken in, or it be a place where no Mares are kept, this is not punishable. Chap. 8.

twenty shilling a month for every cow or calf. 2, & 3 P. M. 3. 35

Forfeit the horse 32 H. 8 13. 8 El 8

If any between the Nativity of the Virgin and Saint *Martin*, take any Salmons in any River, or take young Salmons in any river between *Sept.* 8. and *Nov.* 11. or at mil-pools between the mid st of *April* and *Midsummer*: or have taken or destroyd any frie of fish in any water, or have taken any fish out of season (that is) being keepers or shedders: or taken any Pickerel under ten, Salmon under sixteen, Tront under eight, or Barbel under twelve inches: or have taken fish in any water with a net, whereof every mesh is not two inches and an halfe broad, within five miles of the sea, with a draw-net not an inch and half from knot to knot.

Destroying the spawn of fish. Burn the nets, impr. a quarter of a year, under cõservators have half the fine upon Inditement. But there must be a year past, ere it can be punished here; for this time is given to the Leet to punish it.

Forfeit the Net and ten shil. levied by distress and sale 17 R. 2 9 Westm. 2. 48 1 El. 17 14 El. 11 1 Jac 25. 3 Jac. 12 3 Car. 4.

But the taking of fish by angling: or the taking of Smelts, Loches, Minhews, Binheads, gudgeons or Eels, where they have been used to be taken, is not prohibited by any law.

If any flesh be dressed or killed in a cõmon vi-

Cap. 8. ſtualling houſe in lent, within one year laſt paſt.

If men without licenſe eat fleſh on the days appointed for fiſh (whereof *Wedneſday* is none) within one year laſt paſt.

If any in whoſe houſe it is eaten doth not diſcloſe it to him that hath power to puniſh it.

There are certain offences and certain Laws that do make them ſo, which becauſe we do not find they do at all belong to the Conuſance of this court, albeit ſome of them have been uſually given in Charge, there we do purpoſely paſſe over; of this ſort are the ſtatutes of Maintenance & Champerty. 32. *H.* 8. 9. of Sheriffs 1 *Ed.* 4. 2. 4 *Ed.* 3. 10. of the clerk of the market. 13 *R.* 2. 4. of coopers. 23 *H.* 8. 4. 31 *El.* 8. of Wollen yarn. 7 *Ed.* 4. 3. of cloth 43 *El.* 10. 27 *H.* 8. 12. of ſervants waſting their dead maſters goods. 33 *H.* 6. 1. 4 *Ja.* 2. of bows. 12 *Ed.* 4. 2. 1 *R.* 3. 13. for ſelling of cattel. 3 & 4 *Ed.* 6. 19. of bringing in forreign wars. 5 *El.* 7. of prices of bows. 8 *El.* 10. of forging of Deeds. 5 *El.* 14. And ſome others.

Lent
Seize it and give it to the poor
10s. one months Impriſoment without bail.
52 ſh. 4d 1 Iac. 39 3 Car. 4 2 El. 5 27 El 7 *Sect.* 27.

The laſt thing we ſhal mind you of is, touching Preſentments, that in thoſe you make, you do ſet down a certainty of the perſons preſented with the time & place & manner of the fact: otherwiſe let the matter be what it wil for which you do preſent any man, your preſentment may become void, and of little or no effect; for defect in the manner of making it, and ſetting it down, will make it void.

CHAP. IX.

Of their Proceeding in theſe Courts.

Sect. 1. THe manner and order of proceeding in the Generall Quarter Seſsions. and in

a Special and particular Sessions, is for the most part one, and in most cases after one way, for their power by the commission is alike in all offences by the common law: but their power by Acts of Parliament is after a divers manner: for some Statutes run thus; That they shal enquire only; see 23 *Eliz.*1,2,3. 1*Eliz.*23. 5 *El.* 1. 13 *Eliz.*3. Touching offences about acknowledging the Kings Supremacy, the service of God, coming to Church, or establishment of Religion, and others.

Some that they shall enquire and punish.

Some that they shall enquire and determine. 2 *H.*6.14. About wines. 8 *H.*5.3, About gilding and the fineneſſe of silver.

Some that they shall hear and determine; and others enquire, hear and determine, which are all one. So 2 *&* 3 *Ph.& M.*3. About milch Kine. 36 *Eliz.*4. About rogues. 2 *&* 3 *Phil.& M.*7.31 *Eliz.*12 About horses sold and toll'd in Fairs. 5 *Eliz.*21. About fishing and hunting in a Park. 27 *Eliz.*12. About under-sheriffs and their Officers. 1 *Eliz.*17. About the destoying of the breed of fish. 2 *&* 3 *Ed.*6.15. About the conspiracy of Victuallers, &c. 5 *Eliz.*9. About perjury. 1 *Jac.*22. About Tanners &c. 27 *Eliz.* 7. About return of Jurors. 23 *Eliz.*10. About Pheasants. 3 *Eliz.*3. About transportation of sheep. 20 *H* 6.19. About Souldiers. 33 *H.*8.9 About Archery. 23.*H.*6.10. About Sheriffs. 13.*R.*2.8. About Victuallers. 1 *H.*8.7 About Coroners, 11 *H.*7.8. About weights. 28.*H.*8. 14. About wine. 1 *&* 2 *Phil.& Mar.*5. About transportation of corn and provision.

Some think that they shal hear and determine by inquisition, presentment, bil, or information before

Chap. 9. The manner and order of proceeding in these Courts, for the conviction and punishing of offenders.

Supremacy
Church
Wines
Gilding
Milch kine.
Rogues
Horses
Fishing
Officers
Breed of fish
Conspiracy
of Victualers
Perjury
Tanners
Return of
Jurors
Pheasants
Transportation
Souldiers
Archery
Sheriffs
Victuallers
Coroners
Weights
Wine
Transportation.

Chap. 9. before them, and examination of two lawfull witnesses, or by any of these wayes, according to their discretion,&c. so are 5 & 6 *Ed.*6.14. 5 *Eliz.*12. about ingrossers. To this effect is, 2 & 3 *Ed.*6.10.about Malt.5 *Eli.*5. about fish.

Ingrossers
Malt
Fish

Some run thus, That they shall examine,hear and determine every such default[or every such forfeiture]upon presentment thereof had before them in the Sessions,&c. So 12 *Ed.*4.9. About an Escheator. And to punish the offendor by imprisonment, or otherwise,according to their discretion,&c. So is 28 *H.*8.14. About wines.

Wines

Some that they shall hear and determine,&c. And also by their discretion examine all persons suspect to offend against this Act. 1 *Jac.*22.about Tanners.

Tanners

Some thus, That they shal hear and determine by their diseretion,as well by examination as otherwise,the defaults,&c.So is 17 *Ed.*4.4. about making of tile.

Tile

Some that they shall by examination or Enquiry hear and determine, and set fine according to their discretion,&c. So 11 *H.*7.4. About weights.

Weights

Or thus, shall enquire and determine as well by presentment as examination.1 *H.*8.7.

Or thus, that Justices and Stewards of *Leets* shall enquire, and the presentment in the *Leet* shall be certified to the next Quarter Sessions. And the Justices shall hear and determine every such presentment before themselves or steward by examination or otherwise. 33 *H.*8.13.

Stone-horses

About shoned horses.

Others thus, that they being convict by witnesses,or confession taken before the Justices of Peace in their generall Sessions, shall suffer any corp oral

corporall punishment but death, as they shall appoint. And that they shall call by processe or otherwise to Sessions the persons suspect, or commit them to ward, or upon baile till the next Sessions. So is 33 *H.*8.1. About false tokens. Chap. 9. Tokens

Others thus, That the Justices of Peace when they may attend, survey the offences against this Statute 3 . and if they find any, shall make due punishment thereof according to the contents of this Statute. So is 17 *R.*2.9. About Salmons.

Others thus, upon pain to be grievously punished, according to the Justices discretion, they shall judg them to the same bodily punishment, as the offence requireth. And shall do execution thereof. 13.*R.*2.8. Salmons

Others thus, that they upon the party grieved his complaint, shal make out processe against the Sheriff, &c. as in an Action of Trespasse, to appear before them to answer the matter. See 11 *H* 7.15. about Sheriffs. Sheriffs

Others thus, that they shall at their Sessions Indict and try the offenders by the usual course of trials and indictments in like cases, See 39. *Eliz.* 11.

Others thus, that the Sheriff shal certifie all indictments taken before him, in his turne, to the Justices of Peace. And they shall proceed as if they were taken before themselves, &c.

Or thus, that the Justices shal charge them that appear before them, that they duly enquire and put in execution the effect of the premisses in due time, so that this act may be fully executed, 24.*H.*8.10.

Others thus, that they shall examine the trespassers in this case, and do execution of them that be

Chap. 9. be found faulty by Inquest or by examination to be made by the Judges in manner aforesaid. See 8.H.6.5.about Woollen yarn.

Woollen yarn. Others thus, that they in their Sessions may enquire by the oath of 12 men of those offences, & their Presentment shall be of the same force, as those in the Kings Bench are; see 7 *Ed.*6.5.about wines.

Wines Others thus, that these offences be enquired, and presented before the Justices of Peace, in their quarter sessions, & thereupon such due proceeding shal be against the offender, as in such cases, by the Laws of the Realm, is used, 4 *Jac.* 5.about Drunkennesse.

Drunkennes Others thus, that the Justices in their Quarter Sessions, or any two or more out of the Sessions, shall hear, punish and determine, see 1 *Jac.* -27 about Pheasants.

pheasants. Others thus, that they shall enquire by Oath of twelve men, or by Information; and make such like Process upon presentment, or Information, as they use to do upon Presentment of trespass, 25.*H.*8.12.about keeping sheep.

Sheep Some thus for felonies, That the Justices having power to determine felonies, shal hear such offences, & execute the offender. Or thus, they shal be punished as other felons, or suffer death as other felons by the law. 39. *Eliz.*17. 8 *Eliz.* 3. 1.*&* 2 *Ph.& Ma.*4.21.*H.*8.1.*F.*31.

Sect. 2. For the opening of which, these rules must be

Inquisition see above, ch. 5 Sect 4 taken notice of.

1. One Justice of Peace cannot take an inquisition of a Statute, unless the Statute doth especially enable him to it, as in case of a forcible entry &c.

Forcible entry

Examine 2. Where the Statute giveth power to examine only

only, it seemeth this includeth *Oyer & Terminer*, And though it say not what person it shall examine, yet it seems they may examine parties as wel as witnesses, *Dal. F. P.* 191. Cap. 11.

Enquiry.

3. Where a Statute doth enable the Justices only to enquire, there in some cases they are to take an enquiry, and certifie it to some higher court, as in case of some great offences, as in 1 *El.* 2. 3. & others. But it is not always taken in in this sense, for it doth somtimes imply *Oyer* and *Terminer*.

Oyer and Terminer.

4. Where the Statute doth enable them to hear & determine an offence, this doth comprehend all the necessary ways and means of doing of it; as information, hearing, presentment, granting process, giving Judgment & execution; & therefore that the addition of these things are superfluous, & this is the largest power of all. But in this case it is held, it must be in one of their sessions, & in the ordinary way of trial, & that the Justices can not do it out of the Sessions, *Dal. F. P. f.* 39.

Sessions

5. Where the matter is to be tryed by witnesses only, there it seems two witnesses are requisite; but if it be to be tried by Jury, there one witnesse will serve, and somtimes none, *Plow.* 12.

Witnesses

6. The trial by examination of offenders, or witnesses alone without a Jury, is not permitted to Justices of peace, but in case where the Statute doth either in general refer the trial to their discretion, or else they are especially enabled to take examinations, otherwise it must be by Jury.

Trial by examination of Witnesses

7. Where a statute speaks of proof, it shal be taken for proof by witnesses only, yet some say by a Jury, *Dal. F. P. f.* 191. *Young* in his *Præcognita*.

Proof

8. Where the Statute doth enable Justices to a trial according to their discretion, there it seems they may take the examination of witnesses upon oath,

Oath

Cap. 10. oath, *Da. F. P.* 120. 16 *Young* in his *Præcognita* to his booke. *Dal. F. P.* 191. *Lamb.* 535, 536.

Tryall Indictment

9. Where the Statute doth not direct the way of Trial, there it must be by the ordinary way of Indictment, according to the common law, *Dals. F. P.* 193. 73. *Young.*

Sessions.

10 That which may be tryed another way out of the Sessions, the Justices may try by Indictment in the Sessions at their choice.

Oath.

11 When the Statute speaks of examination of witnesses, or other accusation or proof, though it say not upon oath, yet it seems it must be so, *Da. F. P.* 192.

Witnesses.

12 Where a Statute speaks of witnesses, it cannot be with lesse then two, unlesse the tryall be by Jury, where it may be, one will serve, *Dal. F. P.* 192.

CHAP. X.

Sect. 3.

But the whole proceeding in an ordinary way lieth in three things. 1. In Information. 2. In Hearing or Tryall. 3. In giving Judgement, and doing execution.

CHAP. XI.

Of Information.

Presentment

As to the matter of Information, these things are to be known.

1. That the Judges of these Courts take knowledge of offences many wayes. As 1. Either by the presentment of some publick officer, steward of a leet, Supravisor of high-wayes, constable, or the like. 2. Or by the presentment of the

the Jury. 3. Or by their own view. 4. Or by the information of private perſons, ſo is the common informer. As to the firſt of theſe, theſe things muſt be known: 1. A ſteward is to certifie to the Juſtices of peace the defects of ſtone horſes that go in commons upon 32 H. 8. 13. A Sheriff, the indictment found before him. A ſearcher of tile, defects of tile-making, upon 17 *Ed.* 4. A conſtable to certifie the defects of execution upon the ſtatute of *Wincheſter* 13 *chap.* Cap. 11.

Certificate
A preſentment.

Conſtables, churchwardens, Head boroughs, tithingmen, and Alecunners muſt preſent upon their oaths all offenders by drunkenneſſe or tipling within 4 *Jac.* 5. 2. Theſe are not ſent to the Grand Jury to be found by them as indictments prepared are, but are a perfect information of themſelves, to which the party accuſed muſt anſwer.

For the ſecond, theſe things muſt be knowne. 1 The information given by the Jury is two ways, by indictment or preſentment; how theſe agree and differ, and many other things of this ſubject, ſee in *Lib.* 2. 2. That the Juſtices are to receive in this ſuch indictments as are within their conuſance, and none others. 3. They muſt *ex Officio*, ſee that they be well drawn for matter and form.

Sect. 4.
Indictment.
Preſentment

For the third, theſe things muſt be known: 1. A Juſtice of peace of his own view may preſent the defaults of the highways.

Sect. 5.
Juſtice of Peace.
Preſentment of highways

For the fourth, theſe things, 1. That any man may inform or give in evidence againſt theſe offenders without any danger at all.

And touching the common informer, theſe things muſt be known. 1. None are to uſe this but ſuch as are allowed upon record. 2. That none

Sect. 6.
Common informer.

is

Cap. 10. oath, *Da. F. P.* 120. 16 *Young* in his *Precognita* to his booke. *Dal. F. P.* 191. *Lamb.* 535, 536.

9. Where the Statute doth not direct the way of Trial, there it must be by the ordinary way of Indictment, according to the common law, *Dals. F. P.* 193. 73. *Young.*

Tryall Indictment

Sessions.

10 That which may be tryed another way out of the Sessions, the Justices may try by Indictment in the Sessions at their choice.

Oath.

11 When the Statute speaks of examination of witnesses, or other accusation or proof, though it say not upon oath, yet it seems it must be so, *Da. F. P.* 192.

Witnesses.

12 Where a Statute speaks of witnesses, it cannot be with lesse then two, unlesse the tryall be by Jury, where it may be, one will serve, *Dal. F. P.* 192.

CHAP. X.

Sect. 3.

But the whole proceeding in an ordinary way lieth in three things. 1. In Information. 2. In Hearing or Tryall. 3. In giving Judgement, and doing execution.

CHAP. XI.

Of Information.

Presentment

As to the matter of Information, these things are to be known.

1. That the Judges of these Courts take knowledge of offences many wayes. As 1. Either by the presentment of some publick officer, steward of a leet, Supravisor of high-wayes, constable, or the like. 2. Or by the presentment of the

the Jury. 3. Or by their own view. 4. Or by the information of private perſons, ſo is the common informer. As to the firſt of theſe, theſe things muſt be known: 1. A ſteward is to certifie to the Juſtices of peace the defects of ſtone horſes that go in commons upon 32 H. 8. 13. A Sheriff, the indictment found before him. A ſearcher of tile, defects of tile-making, upon 17 *Ed.* 4. A conſtable to certifie the defects of execution upon the ſtature of *Wincheſter* 13 *chap.* Cap. 11. Certificate A preſentment.

Conſtables, churchwardens, Head boroughs, tithingmen, and Alecunners muſt preſent upon their oaths all offenders by drunkenneſſe or tipling within 4 *Jac.* 5. 2. Theſe are not ſent to the Grand Jury to be found by them as indictments prepared are, but are a perfect information of themſelves, to which the party accuſed muſt anſwer.

For the ſecond, theſe things muſt be knowne. 1. The information given by the Jury is two ways, by indictment or preſentment; how theſe agree and differ, and many other things of this ſubject, ſee in *Lib.* 2. 2. That the Juſtices are to receive in this ſuch indictments as are within their conuſance, and none others. 3. They muſt *ex Officio*, ſee that they be well drawn for matter and form. *Sect.* 4. Indictment. Preſentment

For the third, theſe things muſt be known: 1. A Juſtice of peace of his own view may preſent the defaults of the highways. *Sect.* 5. Juſtice of Peace. Preſentment of highways

For the fourth, theſe things, 1. That any man may inform or give in evidence againſt theſe offenders without any danger at all.

And touching the common informer, theſe things muſt be known. 1. None are to uſe this but ſuch as are allowed upon record. 2. That none *Sect.* 6. Common informer.

is

Cap. 10. is to be admitted to this office, that hath been once turned out of the same by the Court. 3. They may not informe against any man for an offence done beyond the time limited in the Statute of 31 *Eliz.* 4. He may not informe in any of the Courts of *Westminster*, but must bring his Information in the County where the offence was done. And for this purpose, before his information be received and recorded, he must take his oath before the Justices of Peace, that the offence was not done in any other County, and that it was done within a year of the time wherein the Information is laid. And this oath must be entred of Record, 21 *Jac.* 4.

CHAP XII.

FOR the second thing, *Hearing and Tryall.* In this are included these things, 1. The calling in of the party. 2. His appearance and defence.

Sect. 1. *Processe.* For the First, there are Processe to bring in the party in case he stand out, and come not in to answer the accusation. And these process are 1. In case of indictment, or otherwise; upon indictments of Treason or Felony; the Processe are, 1. a *Capias*, 2. an *Alias Capias*, 3. an *Exigi facias*. Upon Indictments for other offences, not being felony, they are, 1. A *venire facias*: And if thereupon the party be returned sufficient, then 2. a *Distringas*, and then Process infinite till he come in. But if a *Nihil habet* be returned at first against him, then 2. a *Capias*

pias. 3. an *Alias capias.* 4. a *pluries capias.* 5. an *Exigi facias. Young. fol.* 133. The processe upon any Indictment or Presentment for an offence against a Statute, shall be such as the Statute doth direct, if it direct any, otherwise the ordinary processe of the common Law. Chap. 12.

There are other Processes, as that by which the Sessions is called, *Fieri facias*, and *Capias* after judgement for the doing of execution, 5. & 6. *Ed.* 6. 14. And in some speciall cases *Elegit.* See 31. *Eliz.* 7.

But touching all Processe, these Rules must be heeded. 1. No Processe do usually issue forth of this Court, but upon the Inquisition of twelve men, or return of a sworn Officer, some speciall cases excepted. 2. They are not granted upon a bare suggestion, by word or writing. 3. Nor can any Processe issue forth but *Sedente curiâ. Lamb. ch.* 6. 5. *Eliz.* 12. 5. *Ed.* 6. 14. Sometimes he comes into the Sessions by Recognizance, being thereby bound to appear there. For all Recognizances that concern the Sessions, are to be certified to the next Quarter Sessions after they are taken, when and where the party is to be called upon them. And if he do appear, his appearance is to be recorded. And the same, or his default of appearance in case he do not appear, is to be certified. 3. *H.* 17. 1. 5. & 6. *Ed.* 6. 25. *Lamb. I. P.* 389.

Recognizance. Certificate. Appearance.

For if a Recognizance be forfeit by default of appearance, or by breach of the condition, the Justices of Peace cannot award any Processe upon it, but must certifie the Recognizance and the cause of forfeiture into some of the Courts of *Record* at *Westminster*, to the end

Recognizance. Processe. Certificate.

Chap.12. that some processe may issue out from thence; *Dalt. I. P.* 213.

Supersedeas. The party bound shall do well if he have a *Supersedeas* from above to discharge him, to appear with it at the Sessions, and pray an allowance of it; for it is doubted, whether his sending of it be a discharge of his appearance, *Dalt. I. P.* 173. *Lamb. I. P.* 113.

Sect. 2. Appearance. Discharge. If one be bound to appear at the Quarter Sessions, he must appear there: If it be at the Sessions, he may appear at any Sessions; *Dalt. I. P.* 237.

Certiorari, And if a *Certiorari* come to remove the *Recognizance* into the Chancery, or Kings Bench before the day, this will discharge the appearance. *Dalt. J. P.* 237.

Confession. Traverse, When the party doth come in, he must after his appearance, make his defence, either he must confesse and submit to the Fine, or traverse the charge; and then he is to be bound to prosecute it, unlesse it be tried presently, which must be done by a petit Jury, and this called an Arraignment, or Triall. And if they passe for the King; and find him guilty of the offence, or he confesseth it, or stand out an outlawry that he be convicted, then are the Justices to give judgement, and see execution done according to Law.

Arraignment.

Conviction.

CHAP.

Chap. XIII.

For the third thing, giving judgment and doing execution.

In the giving of judgment and doing execution, these things are to be known. *Sect.* 1. Judgement.

1. They must adjudge men according to the Law, that is, where the Law appointeth a corporall punishment, they may not inflict a pecuniary punishment. *Et sic è converso.* And regularly where the Law appointeth one kind of corporall punishment, or one degree of pecuniary punishment, they may not change it, and inflict another.

2. They have power to inflict corporall punishment, as death, cutting off the parts of the body, burning or marking, imprisoning, whipping, or stocking, or cucking-stool, *Sect.* 2. Punishment.

3. Pecuniary, as losse of offices, lands or goods, fines, issues, amercements.

4. In fame, as to brand a man that is perjured, that his Testimoniall shall be of no credit afterwards.

Chap. XIV.

Of Fines and Amercements.

Touching Fines and Amercements these things are to be taken notice of. Fines and Amercements.

1. That no Fine or Amercement can be set but *Sedente curiâ.*

2. All Fines and Amercements that are in their discretion, must be reasonable, having regard to the offence. 34. *Ed.* 3. 1.

Chap. 14.

3. Where a Statute doth appoint a certaine penalty for an offence, there regularly no other can be impoſed, nor can the Juſtices of Peace mitigate it after the party is convicted by confeſſion, or otherwiſe. But if the party indicted before his conviction come into the Court, and proteſt his innocency, yet, *quia noluit placitare cum An. Rege*, he put himſelf to the grace of the court, the court may impoſe a moderate Fine, and by order forbear the proſecution. And the common practiſe, (it ſeems) is, that if an information or indictment be againſt a man for drunkenneſſe, tipling, ſelling ale without licenſe, ſwearing, driving cattell on the Sabbath day, or any other offence againſt a Law that gives an expreſſe penalty, if the offender come in and confeſſe it, and put himſelf upon the mercy of the court, they do fine at their diſcretion: But if he be convict by verdict, or oath of Witneſſes, the Juſtices of peace cannot diſcharge him of any part of the forfeiture. And therefore if a man be convict ſo for ſelling an hundred meaſures of beer under meaſure, he muſt pay all the penalty. *Reſolved of the Judges. temp. Car.* R. 10.

Impriſoned.

4. The party is to be impriſoned till he pay his fine, if it be a fine at common Law: For to every ſuch fine, impriſonment is incident; yet in this caſe the Juſtices may take a recognizance for payment of it, and deliver the party out of priſon. Or they may cauſe the Clerk of the Peace to make Eſtreats of all the fines and Amercements, and tranſact them into the Exchequer by Indenture, keeping one part to themſelves. 5. *El.* 4. *Sed quære* whether now they may not require the Sheriffe to levy them. 14. *R.* 2, 11. By which they are to have

Clerk of the peace Eſtreats.

have duplicates indented of the Estreats, and the Sheriffe is to have one part to levy the Fines, &c. by them. Chap. 15.

Chap. XV.

Of a Certiorari.

Certiorari.

AS touching this thing, these matters are to be known.

Certificate.

1. A Justice of Peace while he is in his Office, may certifie the Record into the Kings Bench without a *Certiorari*, but not afterwards.

2. This Writ (being to remove a Record of the Sessions into another court, for that it cannot be fully heard there, or they have proceeded erroniously) is not to be allowed or obeyed, except it be delivered at quarter Sessions in open Court; Nor if it be for a Riot, forcible entry, assault or battery, untill the party indicted enter into bond of ten pound to the Prosecuter with sureties such as the Justices of peace there in court shall think fit, with condition to pay him such reasonable costs and damages as the Justices of peace in their Sessions shall assesse within a moneth after this conviction, 21. *Iac.* 8. *Lam. I. P.* 108. Otherwise they may proceed to triall. And yet an Indictment or forcible detainer may, *Dalt. I. P.* 219, 220.

No Writ of *Certiorari* or *Habeas corpus* shal be granted or allowed in any Action, Bil, Indictment or information brought upon any penal Law about buying of corn, with intent to put the same to sale in meal or flower, or concerning selling, buying, searching, viewing, ordering, or disposing of any corn, wine, beer, ale, fish, fleih, salt butter, cheese, or any other dead victuall whatsoever. And if any be

Chap. 16. it is void. And all Judges Officers and Prosecutors may refuse to obey it. *Act.* 23. *Octob.* 1650.

No Indictment is to be sent immediately to the Kings Bench by this Writ, but first into the Chancery, and from thence into the Kings Bench by a *Mittimus*. *F.N.Bre.* 242. *Lamb.* 591.

4. A *Certiorari* for matters of the Crowne need not contain the cause of the removing. *Lamb. F. P.* 514. 2. In Chancery it is *in Cancellaria*, in the Kings Bench *Nobis mittatis*. 3. It may require the sending of the Record, or the tenor of it. 4. It is to be sent to the Justices. 5. Though it bear date before the Judictment taken, yet it is good enough. 6. If it vary from the Record, they may refuse to certifie. 7. The Justices may send it, though the party do not follow it. 8. The Certificate must expresse that which did authorize the Justices to make the Record, but need not certifie more than the *Certiorari* warranteth, *Lamb. F. P.* 516. 9. If an Indictment be sent up by a *Certiorari*, the Justices must take care how they certifie it, or it may be quashed for an insufficient Return.

Indictment.

Chap. XVI.

Of an Indictment and Prosentment.

Indictment. what.

AN Indictment is a Bill or Declaration formally made, containing an accusation of a man for some offence committed, by a Jury to be found of purpose to put the offender to answer to it. Or it is the verdict of the Jurors, grounded upon the accusation of a third person, the which the Jurors are

are charged to enquire of. Or it is an accusation found by an iuquest of men upon their Oaths. And this sometimes is called a Presentment, which differs little from that, being defined to be an enquiry finding some offence against the Common wealth. Or a meer information or denuntiation of the Jurors themselves, or of some other officers, without the accusation or information of another to the Justices that have power to punish the offence done contrary to the Law. *Cook super Lit.* 126, 127. *Stamford Lamb.* 485. Chap. 16.

Presentment what.

Informatio what.

An information is the accusation of the party offending by a stranger before the Justices of the Peace, for the Kings, or the Kings and his own benefit, to the intent to put the party to answer.

Appeale what.

Appeale is the plaint of one man against another, of purpose to attaint him of some offence.

(2) Cextall Rules.

The Indictment or Presentment, is the chief ground-work whereupon the whole triall is afterwards to be built.

In every crime seven things are to be considered, *viz.* the cause, person, place, time, quality, quantity, and event.

Every Indictment, Presentment, &c. (especially if it concern a mans life) being in the nature of a Declaration for the King against the offender, to which the party must answer, and upon which the Court must judge, must contain verity, certainty, and perspicuity, certain ought the Declaration to be, certain the foundation, certain the matter which is brought into judgement. For an Indictment cannot be made

Chap. 16. good by implication. *Stamf.* 96.

The Indictment is to prepare for a triall. For the Triall it self is the issue upon the indictment.

(3) Wherein an Indictment, Presentment, or Information shall be said to be good or not.

Many things are requisite to make a good indictment, presentment, or information.

1. As that the party indicting, &c. be competent. 2. That the indictment be brought in due time. 3. That the matter be indictable. 4. That the indictment be for manner and matter substantiall. And if it be defective in any of these particulars, it may be quashed. *Cook.* 5. 120, 121.

1 For the persons by whom, and who may be Indictors or Informers.

Any honest man may follow an indictment, and any one that is a competent witnesse, may be a competent indictor.

But it seems such persons as are infamous, may not be indictors. And therefore 11. *H.* 4. 41. one was discharged of an indictment because one of his indictors was out-lawed for felony. *Young* 116. *Stamf* 88.

Such as have for misdemeanour in their common informing, been put out by order of the Kings Courts, cannot be an informer. *Stat.* 31. *Eliz. ch.* 5.

2. For the person against whom it is brought, and who may be indicted.

Any person may be indicted that lives within the County, or that have lived there, or that have committed an offence therein. And women, covert infants, and all such like other persons, who may commit an offence against a law, (if they be not excepted in the Law) may be indicted for that offence as well as others. *Cook.* 11. 61. *Dier.* 104. 13.

A Justice of Peace may be indicted at the Sessions of his own County, before his fellow-Justices. *Lamb.* 631.

The

Chap. 16.

The Indictment may be brought at any time for an offence done againſt the common Law; but for any offence againſt the Statute, it muſt be brought within the time the Statute preſcribeth.

3. For the time wherein it is brought, and in what time the Indictment, &c. muſt be brought

For ſome offences it muſt be brought at the next or ſecond generall Seſſions after the offence being done; as thoſe againſt the Ordinance of the *Directory*.

For ſome offences it muſt be brought within a year after the offence done; as the Statute 2 & 3. *Ph.* & *M. ch.* 3. about keeping Kine, &c. 31. *Eliz. ch.* 4. about Armour. 2 & 3. *Ed.* 6. *ch.* 10. about Malt-making. 5. *Eliz.* 5. about eating fleſh. 33. *H.* 8. 6. about ſhooting, 7. *Ed.* 6. 5. about Wines. 32. *H.* 8. 9. about maintenance. 3. *H.* 7. 1. about Inqueſts for concealment of felonies.

For other offences it muſt be brought within two years after the offence done; as foreſtalling, regrating, and ingroſſing, againſt the Statute of 5. & 6. *Ed.* 6. *ch.* 14.

For other offences within ſix moneths by Statute, 5. *Eliz. ch.* 15. about Propheſie *Stat.* 4. *Jac. ch.* 5. about Drunkards, 5. *Eliz.* 5. about fiſh by the Informer, 33. *H.* 8. 6. about ſhooting by the Informer.

All actions, indictments, and informations, where the forfeiture is given to the Keepers of the Liberty alone, ſhall be brought within two years after the offence done. And all actions, &c. but the Statute of tillage, where the forfeiture is given to the Keepers, and another muſt be brought within one year after the offence done. *Stat.* 31. *El. ch.* 5. Or in default of that for the King within

two

Chap. 16. two years; for shooting, for the King within a year; and such as are brought after this time are void. But where the Statute by which the offence is made doth limit a shorter time, there it must be brought within that time. 33.*H.*8.6.

And therefore one being indicted for not baptizing his child, and it appeared the offence was three years before, the Court stayed the Indictment. *Mich* 7. *Jac. Stoners Case.*

4. For the place of the offence, and in what place it may, or must be said to be.

An Indictment, Presentment, &c. generally must be said to be in a place certain for the *venue.* And it must be there brought and preferred where the offence is done. *Stat.* 1.*R* 3.2.

If it be upon a penall law, it must be laid to be done there where in truth it was done, else the Defendent shall be found not guilty.

But informations against Popish Recusants for not coming to Church. For maintenance, champerty, and some others may be alledged to be in any County. *See the Statute* 21.*Jac.*c.4.

If one be stricken in one County, and die of that stroke in another County, he may be indicted in the County where the death is, *Stat.* 2. & 3. *Ed.* 6. *c.* 24. *Lamb.* 493. And it seems the two Counties, unlesse *London* be one of them, may joyn in this case, *Brook in Dict.*45.31.26.

If a felony be done in one county, and a man become accessary thereto in another county, the Indictment against the accessary may be good in the county where he became accessary. *Lamb. F. P.*493. *Young* 120.

If one be robbed by the highway in *Middlesex*, and apprehend the Thief (having the goods about him) in *Essex*, he may be indicted for this felony in *Essex*, but not for the robbery there,

there, for it is no robbery but in that County, but is felony where ever he hath the goods. *Lamb.* 499. *Young* 120. Chap. 16.

One was indicted *Banco Regis* in *Middlesex*, for that he at *B.* in the County of *Middlesex* did procure *I.S.* to kill *I.B.* whereby he killed him at *S.* in the County of *Berks*, and it seems it is good. 9. *Ed.* 4. 48.

In informations, the very county wherein the thing was done must be expressed, except it be for champerty, buying of Titles, Extortion, or for matter of corrupt Usury, or for ingrossing or regrating, where the penalty appears to be twenty pounds or above, and in some other cases which may be laid in any county, as please the informer. *Stat.* 31. *Eliz. chap.* 5. *Poulton de pace* 165. 166. And all suits grounded on 33. *H.* 8. c. 9. touching unlawful games, and bowes and arrows, 5. *Eliz. ch.* 5. For using any trade which one hath not been brought up in, shall be heard and determined at the assizes or quarter Sessions of the County wherein it was done, or the Leet within which they happen, not elsewhere.

5. For the things for which a man is indicted, and for what causes an Indictment lieth.

A man may be indicted in this Court for any felony, for any Trespasse, for any wrong done by fraud or force, for any offence against a Statute Law, the conusance whereof is referred to the Justices of Peace. And therefore upon any offence against any Article of the charge; as for extortion, escapes, rescues of persons and goods, unlawfull distresses, with-holding of Treasure trove from the King, for conveying away men from the Justice of the Law, for hiding and keeping away an Apprentice from his Master, for Popish Recusants. 3. *Jac. c.* 4. For con-

Chap. 16. concealment of Felonies in Inqueſts. *Stat.* 3. *H.* 7. 1.

But an Indictment in this Court is not good for the taking of ſuch things which are *feræ naturæ*, as deer, hare, partridge, pheaſants, unleſſe they be made tame, or taken out of a Park, for they are not valuable. 8. *Ed.* 4. 5. Nor for Treaſon. Nor for breaking a Recognizance of the good behaviour. 8. *Car. B. R. Cook* 4. *part. Inſt.* 18. Nor for incloſing Commons. *Brook Indictment in toto.* For the remedy upon the forfeiture of a Recognizance is by *ſcire facias*, and not by Indictment. *Cook* 4. *part of his Inſt. f.* 181. *Yet ſee Stat.* 5. *&* 6. *Ed.* 6. 25.

6. For the manner and form, and when it ſhall be ſaid to be formall, or not.

All Indictments muſt be entred and inrolled in Engliſh: and where Indictments did uſe to ſay, *the Seſſions of the peace of the King*, it muſt be *the Seſſions of the publike peace:* and whereas it was ſaid, *the Fury of the Lord the King, ſay and preſent*; now it muſt be *the Fury for the Keepers of the Liberty of England by Authority of Parliament ſay and preſent.* And inſtead of theſe words, *in the peace of God, and the ſaid Lord the King then being*, it muſt be, *in the peace of God, and in the publike peace then being:* and inſtead of theſe words, *againſt the peace of the ſaid Lord the King, his Crown, and Dignity*, it muſt be theſe words, *againſt the publike Peace:* and where mention is made of *high-waies in Inditements*, they ſhall be called, *common high-waies*, and not the *Kings high-waies*: and theſe words, *of the ſaid Lord the King, or Kingdom, or his Kingdome, or this Kingdome, or Kingdom in any caſe*: and theſe words, *little regarding his due Alleagiance towards the Lord the King*: and

and these words, *against his due Alleagiance*, and in the defamation and derogation of the Kingly Majesty of our said Lord the King, now shall be wholly left out in all Indictments, Presentments and Inquisitions. And in Indictments for abusing money, where it is *imagining and intending the said Lord the King, and his people, craftily, falsly, feloniously, and traiterously to deceive, &c.* It shall be *imagining and intending the people of England, craftily, falsly, and traiterously to deceive, &c.* And where in these Indictments it hath been, *to divers of the said Lord the Kings liege people and subjects, falsly, feloniously, and traiterously hath spread abroad, &c.* it shall be *to divers honest persons of England, hath falsly, feloniously, and traiterously spread abroad, &c.* and for uttering false coyn, where it was *of lawfull money and coyn of the said Lord the King of this Kingdome of Englaud*, now it shall be *of lawfull money and coyne of England.* And whereas it was, *to divers liege people of the said Lord the Kings subjects, for true, lawfull, and currant money, and coyne of this Kingdome of England, falsly, voluntarily, and knowingly hath spread and uttered in payment to the great deceipt of our Lord the King, and his people, and against their due Alleagiance.* It shall be, *to divers honest persons of England, for true, lawfull, and currant money, and coyne of England, falsly, voluntarily, and knowingly hath spread abroad, and uttered in payment to the great deceipt of the people of England*, or with the like alterations supplying the sense thereof, and suitable to the alteration made. *Act.* 17. of *Feb.* 1648. 9. of *April* 1651. 22. of *Nov.* 1650. Chap. 16.

In

Chap. 16. In an Indictment of Treason, the word traiterously must not be omitted. So in an Indictment of felony, petit Larceny, or Maihm, the word feloniously, in an Indictment of murder murdred, which is sufficient without saying of malice forethought, in an Indictment of Burglary, burghlarily, or burglarily, or burgularily, in an Indictment of piracy, piratically, in an Indictment of rape, ravished, in an Indictment of riot, riotously, *Poulton* of the peace, 25.27.*H.*8. 17.*Cook.* 4. 41.*Stamf.*149. 9.*E.*4. 26.*Dy.*99. 216. 304. For scarce any other words will supply these, and therefore to say, that A. broke the mansion house of B. in the night, is not good for Burglary; and yet to say hath broken, &c. with the intent to commit felony or murder, is held to be good; so if it be, that A. hath slain B. of malice forethought, and freely, or feloniously, this is not good to charge for murder, though happily it may be good for man-slaughter. So if that A. feloniously took B. and her carnally knew, is not good for rape, so he stole, or ravished, and stole without feloniously is not good: So to say A. took B. into the cold, whereof he died, without feloniously is not good.

For a riot, instead of riotously, routously and unlawfully was judged void, in 7.*Ja. B.R.*

To say in an Indictment, Feloniously he led away, without he took, or he took, without led away, is not good, but it must be, took and led, or carried away. So to say, that A. burglarily broke the Church, &c. in the night, *ad deprædandum*, to make a prey of the goods of the Parishioners in the same being was adjudged void.

In forcible entry on the Statute, 8.*H.*6. 9. It must

must be with strong hand, or with a multitude of people, or it is not good. Chap. 16.

The Indictment was, not with strong hand disseised, but with force armed, and it was agreed to be naught. *M.7.Fac.R.B.* in *Shellitons* case.

In the Indictment upon the 8. *H. 6. chap. 9.* it was said, That he against whom the Bill is preferred, disseised him that preferred the bill with force and arms, *viz.* with swords, &c. omitting with strong hand expelled, and it was adjudged good.

If one be indicted as accessary to a Burglary, the Indictment must say malitiously, *Dier. 99. 304. Lamb. J. P. 50. Poulton de pace 25. 27. H. 3. 27. 9. Ed. 4. 26, 29. Dier 69. 216. Plow. 475. Cook. 4. 41. Stam. 94. Cook. 4. 39. 8. Ed. 4. 10. Cook upon Littl. 127. Dier. 189.* But those Indictments may be good for Trespasse, or some other offence that have these defects in them.

The omission of these words, with force and arms, *viz.* with staves, knives, weapons, and arrows, and the like words in Indictments of forcible entry, or other Indictments do not make them vicious. But it is good to insert them for aggravation: yet if they be omitted in an Indictment of felony, it seems it is otherwise, for in *M.17.Fac.B.R.* An Indictment for petit Larceny was quashed for lack of these words: yet see the Statute of *37.H.8.c.8.* Vi & armis.

But the inserting of these words in the Indictment, with force and arms, where they are needlesse, as in an Indictment that for an offence that lieth in *non fesans* or neglect will not hurt it. *Cook. 9. 50.* In forcible entry it is needlesse, for it is implied. *Lamb. I. P. 582. Young. 121.*

Some

Chap. 16.

Contra pacem.

Some think these words against the peace are necessary to be used in all Indictments of felony, forcible entry, riot, trespasse and the like; and in all offences against any Statute, though it be for not doing: and where is any force, and before the Statute with force and arms must have been used: for in 17. *Iac. B. R.* one *Palfray* was indicted for a common Barretor, and the Indictment was quashed, because it did not say, against the publique peace, nor against the form of the Statute. *Cook* 9. 50. *Lamb.* 502. *Young* 121. *in Stat.* 4. *Iac.* 1.

But the inserting of these words where they are needlesse will not hurt the Indictment. Nor a false conclusion of an indictment.

In pace Domini Regis.

The omission of these words, that the party slain was in the peace of God, and the publique peace will not hurt the indictment. *Cook.* 4. 41.

If an Indictment have these words in the beginning, feloniously and of malice forethought; to the affray, and after omit it to the stroke, yet it is good. *Cook.* 4. 41.

If the Indictment be that *A.* beat *B.* and one horse of the price of 20. s. feloniously took, omitting of him *B.* this is good. *Fitz. Indictmint.* 6.

If in an Indictment for robbery assault be made be omitted, this makes it void for felony, but not for robbery. *Dier.* 224. *Hill.* 7. *Iac. B. R.*

This Indictment was thus. The Jurors present, if *I. B.* of &c. instead of that *I. B.* of &c. and it was quashed.

An Indictment was, *Quod quidem A intra Libertatem Domini Regis villæ suæ de Cossam, &c.*

&c. ſubter mamillam, &c. dedit vulnus, &c. A- Chap. 16.
vus cum pelleto plumbeo vulnus totaliter penetrans in & per corpus, &c. Exceptions. 1. That the village of *Coſſam* was not ſaid to be within the Liberty of *Coſſam*. 2. For that it was *ſubter mamillam* with a ſingle *m*. 3. For that it was *vulnus*. 4. For that the depth and breadth of the wound was not deſcribed, but were over-ruled, yet for want of the word he ſtruck, made void after Outlawry and the party diſcharged. *Longs Caſe. Cook.* 5. 20.

Where the Indictment is of a living thing, and the number is to be ſet down, or of a dead thing in the ſingular number, or that goeth by weight or meaſure, or of coyn that is not current, it muſt be of the price not to the value. But if it be of dead things in the plural number, not going by weight or meaſure, or of current money, then it muſt be to the value, not of the price. If it be of dead things, it muſt be goods and chattels, expreſſing the names thereof in certain. If living things, he muſt ſay, an horſe, oxe, ſheep, the number muſt be expreſſed.

If an Indictment be that the goods of the foreſaid *W. S.* felonioufly he took, and *W. S.* not ſpoken of before is naught.

If the Indictment be for taking the goods of a Church, it muſt ſay, the goods of the Pariſhioners in the cuſtody of the Wardens, &c. and the goods of the Church is not good. *Brook. Indict.* 33.

If it be the goods of a Parſon, it muſt be the goods of the Rector, not of the Church. 37. *H.* 6. 30. *Young* 120.

The goods of a Corporation they muſt be ſaid to be goods of them by the name of their corporation.

If the goods were taken from the Teſtator, the Indictment muſt be, the goods of the Teſtator, but if

Chap. 16. after his death, it must be the goods of the Testator, in the custody of his Executors being; *Lamb. Just. P.* 496. *Young* 120.

For the taking away of a Coatar more over a Tomb, it must be goods of the Executor of him whose Tomb it is. But for a Tomb-stone goods of the Church. If they be taken from a trespasser, they must be said his goods that had the last possession. But if I deliver them to one to keep for me, and they be taken from him, it must be goods of me in his keeping. *Young* 121.

An Indictment of the goods of a Chappell in the custody, &c. goods of an house or Church in time of vacancy, it is good. 7. *Ed.* 4. 14.

Verity. Every Indictment or Presentment must have verity in it, and it is to be framed as neere the truth as may be; for it is to be found by the Jury upon their Oaths, and the Indictment being *verè dictum*, and a matter of Record ought to set forth all the truth that by Law is requisite. For of things not appearing, and not being, is the same reason. And every part of it must be found by the Jurors, and no part can be supplied by averment. And if it be not so, it is insufficient, *Stat.* 31. *Eliz.* c. 5.

Certainty. Incertainty. Also it must have a full and precise certainty, and perspicuity in the Record it self, so that it need no supply by argument or intendment, for it is to be found by the Oath of Laymen. And this certainty lieth in six things. 1. In the persons that did the offence, and against whom the offence was done. And for this we are to know, that though it be not needfull in informations, yet in Indictments and Presentments the names of Baptisme and sirname of the party indicted

indicted and presented with an addition of his mystery or degree, and his dwelling place is to be inserted, as I.S. of W. in the County of G. Mercer. 1 *H.* 5. 1. 5. *Poulton de pace* 169. *vi.* The Town hanslet, and County of which he is or hath been of late conversant; otherwise it is insufficient and may be avoided. And a mistake in the name of Baptisme is more dangerous then in the sirname; for a man may plead misnaming of his name of baptisme, but of his sirname not.

Additions necessary, and what is a good addition, or not.

The addition of the degree or mystery must be alwaies such as the party hath at the very time. But the addition of the place may be of such where he was at any time before, so that the word lately be added. *Young* 119. *Lamb. I.P.* 490. 491.

The addition of names of dignity by Creation, as Duke, Marques, Earl, Vicount, Archbishop, Knight, Serjeant at Law. Or without creation, as Baron, Esquire, Gentleman. Also Alderman, Widow, Spinster, Single woman, Doctor, Clerk, Parish Clerk, Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Millard, Haberdasher; Goldsmith, Butcher, Carpenter, Chapman, Smith, Labourer, Lighterman, Waterman, Spinner, and such like are good, for the Mystery or Occupation. But Farmer, Servant, Butler, Chamberlin, Citizen, Extortioner, Maintainer, Vagabond, Heretique, Usurer, Thief, Schismatique, Dicer, Carder, Chanceler, Treasurer, Sheriffe, Coroner, Escheator, Bailiff, Dean, Archdeacon, Prebend, or Parson, which are names of dignity by reason of office only, are not good additions. *Crom. J. P.* 96. 5. *Ed.* 4. 40. *Dier.* 203.

Chap. 16. The Inhabitants of a Parish may be indicted either by their names in particular, or in general, without naming any one of them in particular: and the Indictment is good either way, 8. *Jac. Cook & Walberton.*

If a man have two names, or be usually called by two names, he may be indicted by either of them.

If one be indicted by the name of I. S. servant to I. W. in the County of *Middlesex* Butcher, this is void, for servant is no addition, and Butcher shall be referred to the last name. 9. *Ed.* 4. 48.

So if it be I. S. lately of E. in the County of S. wife of W. S. lately Spinster, it is vitious.

If an Indictment be against three, and in the end of their names is Yeoman, this is defective for the two first names. *Dier.* 285. *Plow.* 537.

Alias dict. If an Indictment be against I. S. Citizen and Panner of *London*, otherwise call I. S. of *London* Draper: this is naught, for he may be Panner of *London*, and dwell at *York*.

But Mercer of *London* is a good addition 36. *H.* 6. 30. The otherwise call after will not help the misnaming before, for the addition must be in the premises, not in the otherwise call. *Dier.* 50.

If it be I. S. of C. in the County of G. lately Yeoman, this is not good, for it must be the mystery he is now of; yet I. S. lately of C. is good for the place, but it is best to write him of the place he is.

This addition must also comprehend the Town or Hamlet, or place known out of any Town or Hamlet, and the County whereof the party indicted is, or was; for by the omission of the Town

or

or County the Indictment is naught. And if there be divers Hamlets in one, he may be named of the Town or Hamlet, or of such a Hamlet in the Parish. But if he be named of a place known, and the place be within the Town, he must be named of the Towne: and if both Town and Parish bear one name, he may be named of either. Chap. 12.

If there be two Towns or Villages in one Parish, then he ought to be named of the Parish, if there be but one Village in the Parish, he is to be named of the Village in the Parish of *S.* or of the Parish omitting the Village. But if there be divers Villages or Towns in one Parish, he must be named of which village in the Parish of S. only. If a man have a family in two Counties or places, and live sometimes at the one, and sometimes at the other, he may be named of either. And if a Serjeant at Law doth use to keep Terms, he may be said to be of *London*, or of the place where he dwelled.

If an Indictment be against the Parson of *Dale*, without naming the place of his abode, or against the Rector of the Church of *Dale* in the County of *Glou.* this is not good, 22. *H.* 6. 41.

An Indictment was against divers for a Riot, and it was not expressed in what County they were, for that it was quashed. *Pasch.* 18. *Ia.*

An Indictment was for killing a mans wife thus, That the said A. was in the peace, untill the aforesaid I S. husband of the foresaid A S. of H. foresaid, in the County foresaid Yeoman, in this case it was held good, for it was upon view of the body, otherwise not: For it should have been ately husband. 2. Yeoman shall be referred to

Chap. 16. the husband, for it cannot be referred to the wife. But if it were *Spinster, contra,* for that addition is appliable to a man or woman. *Dier.* 46. 47.

But these additions are not necessary in informations against the breakers of penall Lawes. Nor upon a Sheriffes return of a Rescue, 13. *H.* 7. 21.

Nor is this addition so necessary to the name of the person to whom the offence is done. Yet regularly there must be some certainty in the name of the person against whom the offence is done. *Young.* 120. For a murder may be charged to be upon I. Parish Priest of W. without any sirname, or of a certain unknown one. The goods of a certain man unknown feloniously took, and it is good; but if the Inditement say, that he stole a coat of a man unknown, who he found dead, this is naught. Yet if the party to whom the offence was done cannot be found, it is good without naming him, as before. So for an assault, assault he made upon a certain unknown. *Young.* 118. And yet if an Indictment run thus, that he stole twenty sheep price, &c. and doth not say of whom, or that they were the goods of any body, this is not good So if the Indictment be, that *A.* entred into a house with ten other persons, and neither name them, nor say they were unknown, this is not a good indictment.

If an Indictment be against a man for an accessary, the name of the principal must be set down. So also the accessary, in case the principall be indicted for that offence, else, it is not good; and therefore if the Indictment be that *A.* commanded a certain unknown man to kill *B.* which he did, this is void: but in case of Treason, Trespasse,

passe or maim, where all are principalls, it may be good enough, *quod procuravit personas ignotas* to do the fact. Chap. 16.

An Indictment for distraining the Kings subjects, and doth not say whom, is void.

An Indictment for selling and making of tanned Leather, and did set down the persons to whom it was sold was misliked, it is traversable, 1. *R.* 3. 1.

7. For the time, and how it shall be laid, and when the fact shall be said to be done.

As in personall actions, so in Indictments, Presentments, &c. the day and year when the offence was done, and somtimes the hour, must be certainly set down, as, The 10. of March the year of the Lord, &c. now, or the Indictment will not be good; for if a man be hurt above a year before, it is no felony; and for trespasse against penall Statutes, the offence must be done within a certain time before, Statute 13. *Eliz.* 5. 39. *Eliz.* 1. 2 *Jac.* 4.

And therefore if a felony or trespasse be laid by an Indictment to be done, and no time set down when it should be done, or if it be 10 *Martii* without saying in what year, it is vicious, *Broo.* Indictment 41. But if it be said to be done the day next after the day of Pentecost, or the tenth of March, last past, or the tenth day from Easter, the 4. *Car.* or the *utas* of the holy Trinity; these are good Indictments, that is certain which may be made 8. *H.* 4. 8. 2. *H.* 7. 7. 3. *Ed.* 4. 8. and so if it be *Anno Domini* 1645. without naming the year of the King, it is good, and shall be taken as we ordinarily take it.

If it be said to be done on the Feast of S. *Peter*, it is not good, for there are many feasts of that name, and they have additions, 3. *H.* 7. 5. *Fitz.* indict- Incertainty.

Chap.14. ments 22. But it ſeems in the feaſt of S. *Mich.* is good.

If the Indictment lay the thing to be done on a day yet to come, it is naught, ſo of a day that never was, as the 29. of *February*, except in a Biſſextile, which is every fourth year, for then it hath 29. daies.

When ſeverall acts which are done at ſeverall times do make up the offence, as the ſtroak and the death both times muſt be certainly expreſſed, *Broo. Indict.* 41. *Dier* 69.

When ſeveral actions which are done at ſeveral times do make up the offence, as the ſtroak and the death both times muſt be certainly expreſſed, *Brook Indict.* 41. *Dier.* 69.

If an Indictment be againſt *I. S.* for a ſtroke the fourth of *Auguſt*, and death thereby the nineteenth of *December*, and ſaith further, that *T. W.* the time of the felony and murder the fourth of *Auguſt*, &c. feloniouſly were preſent with ſwords &c. then and there aiding, aſſiſting &c. this is void, for the murder was not till the laſt day, and that *auxiliantes* is neceſſary in this caſe, for it cannot be ſupplied by argument or indictment, *Cook* 9. 62. 5. 120. 42.

If an Indict. be that *A.* ſtruck *B.* the 19. day of *May*, whereof he languiſheth till *May* 20. which 19 *May* he died of the ſame ſtroke, this is naught, for it ſhould be he died the 20. day. *Dier.* 50.

If the offence be done in the night before midnight, it muſt be laid to be the day before, if after, it muſt be laid to be done the following day, *Lam. I. P.* 402. *Young.* 219.

An Indictment was, that *A.* ſuch a day, did a felony at *H.* for which *W.* did arreſt him at *H.* foreſaid,

ſaid, and in ſafe cuſtody then and there had, untill the def. upon the foreſaid *A.* then and there aſſaults made, and the ſame then and there reſcued, &c. it is doubted if the firſt then made the time of the arreſt certain enough. 2. And whether the laſt *ad tunc*, &c. may be referred to any part of the ſaid day. But it ſhould have been *dicto die*, &c.

If a Preſentment be in the negative, or an affirmative riſing of a negative, as that *A.* hath not ſkowred ſuch a Sewer, or that by the not ſknowring thereof ſuch meadows be drowned, in this caſe there needeth no year or day, for it affirmeth a preſent evill, *Lamb.* 492. *Young.* 119.

If the Indictment ſay, that *A.* ſtole goods, 10. of *March*, and 20. of *March*, this is void for incertainty, for one felony cannot be twice committed. 2. *H.* 77. Incertainty.

If one lay a felony to be done the tenth of *May*, and an eſcape of him the firſt of *May*, year 20. aboveſaid, this is naught, for he cannot be acceſſary before the fact done, 21. *H.* 7. 35.

The place, (*viz.*) the Towne and County where the fact was done muſt be certainly ſet down in every Indictment, as *Dale* in the County of *Glouc.* And therefore if the Indictment ſuppoſe an offence to be done, and do not ſay in what town it is void, ſo if he do not ſay in what County 9. *H.* 6. 1. If he ſuppoſe it to be done in ſuch a place as is not within the County, it is naught. 9. *H.* 6. *ch.* 1. 18. *H.* 6. *ch.* 12. 8 For the place of doing the thing, and how it ſhall be laid down.

As if an Indictment be laid to be at *Iſlington*, and ſay not in what County, it is void. So if one be indicted for ſelling tanned Leather, and do not ſay where, or to whom, this is void for incertainty, Incertainty.

Broo.

Chap. 16. *Broo.* Indictment 43. *Broo.* pleading 158. *Lamb.* 149. And if an indictment be that he gave the Livery at ſuch a time and place to him, and that he did weare it, but doth not ſay when or where, this is not good, 5. *H.* 7. 18. Or if he be ſelling and making of tanned Leather, and no place where, it is naught, for it is traverſable, 1. *Ric.* 3. 1. *Lamb. J. P.* 499.

If the offence be laid to be at *Dale* in the county aforeſaid, having reference to the name of the county in the margent of the indictment, it is doubted whether this be a good indictment.

If one be indicted, that he by the command of one *A.* did reſcue a felon, this is not good, for it is not ſhewed where the command was given, 3. *H.* 7. 12.

But the ſetting down of too much, as if it be at *D.* in the county of *G.* in a certain place called *North-cloſe*, will not hurt the indictment.

If it be that he diſtrained at *Dale*, and *J. S.* reſcued the diſtreſſe, and doth not ſay where, it ſeems this is good, for it ſhall be intended the firſt place, otherwiſe it were in caſe of ſuch a return by a Sheriff of the reſcue of a perſon.

When ſeverall acts done at ſeverall times do make up the offence, as the ſtroke and the death, both places muſt be laid down certainly; and therefore if the indictment be that *A.* at *Dale* aſſault made, and him murdered, without then and there it is not good. *Dier.* 69.

If the indictment be that he gave the wound 27 at *D.* in the county of *G.* and that he died at *S.* *&c.* and ſo he murdered him at *D.* this is naught, for he can no more ſay he killed him at the firſt place, then the firſt day, *Cook.* 4. 42. 47.

The

The indictment may ſuppoſe part of the offence to be done in one county, and part in another county, and yet good.

9. For the name and quality of the thing in which the offence is committed.

The name and quality of the thing in which the offence is committed, muſt alſo be certainly ſet forth, as if an indictment be for forcible entry into land, the indictment muſt ſay what land. Therefore to ſay with a ſtrong hand they entred the Tenement, &c. is naught; for Tenement may mean a houſe, as well as land, meadow, or paſture, *Lamb. J. P.* 499. So that he entred the ſite of the manour of *S.* or the manſion houſe of *W. S.* this is void for incertainty, *Trin. Jac. B. R.* and if it be felony, it muſt be a perſonall thing, els it cannot be felony, *Young* 121.

Incertainty.

An indictment of the taking of goods and chattells, it is not good in treſpaſſe or felony.

If it be dead things, it may be *bona & catallis*, expreſſing the name of the thing in certainty, but if it be of things living, it ſhall not ſay goods and chattells, but an horſe, oxe, ſheep, &c.

10. For the value or price of the thing, in which the offence is.

The value or price of the thing wherein the offence is done, muſt alſo be certainly ſet down, to ſhew the nature of the offence, and whether it be petit Larceny, or not, as a certain cow, &c. of the price of 40. ſhil. &c. felonioufly took; for where the number ought to be expreſſed, as if it be for taking ſheep, doves, &c. the indictment muſt ſay of the price or to the value, ſo much, or els it is not good. And therefore an indictment againſt *A.* that he import one load of hay, omitting to the value, was adjudged void; an indictment in felony or treſpaſſe, for taking goods and chattells, without expreſſing the name and value of the thing is void for incertainty. So an indictment

Committed.

for

Chap. 16. breaking a close, and carry away corn, omitting to the value, is naught, 9. *Ed.* 4. 1.

VI. For the description of the matter, and manner of the offence.

The matter it self, the nature of the fact, and offence, and manner of the doing of it, must be also clearly set forth, that it may be distinguished and seen what the offence is, whether Treason, felony, &c. and against what Law it is, otherwise the Presentment or Indictment will not be good. And therefore if the Indictment be, that *A.* taken for felony, feloniously and at large he permitted to go, and doth not say for what felony he was taken, this is naught, 8. *Ed.* 4. 4. So that feloniously he broke prison at *A.* and doth not shew for what he was imprisoned there, 9. *Ed.* 4. 12. 25. *Ed.* 3. *ch.* 9. So if a man be indicted for making of an hundred shillings of Alcumy, like the money of , and doth not alledge what money it was, groats, or pence, this is naught, *Fitz. Indictment* 10.

Incertainty.

And therefore in murder, and man-slaughter, it is good to expresse the stroke whereof the death ensued *Dier.* 69. If the Indictment be, that he killed with a dagger, and it was a sword, it is good enough, *Cook.* 967. *Young* 128.

Darvel was indicted for killing *Bowser*, and it is found they were both in the field with their weapons, and that *Bowser* going out of the field, and returning drew his sword upon *Darvel*, and that then *Darvel* returned back from the hedge, and said, 'tis no place to fight, and so *Bowser* stroke *Darvel*, and then *Darvel* killed *Bowser*, and hence we collect (saith the Jury) that *Darvel* killed *Bowser* in his own defence, and this

this was quashed for ambiguity and incertainty, Chap. 16.
Hill. 17. *B.R.*

An Indictment for murder was quashed, for that it said, with a sword he struck, and omitting which he held in his hand, also for that it omitted, that feloniously assault he made upon him, &c. Also for that it did not shew after the *dans ei* &c. that part of the body that was wounded also for that it said struck, and omitted then and there: but exceptions was taken, for that it is said *dans ei*, &c. and did not say *idem*; but this was not allowed, *Fullers Case*, *B.R. Longs Case*, *Cook* 5. 20. *percussit* to expresse stroke is a materiall word.

If an Indictment be for a wound, and it be laid to be under his left arme, or under his pap, or about his navell, these are void for incertainty, but under his arm, about his pap, or in the left part of his body, or in the left part of his belly about his navell; these are good and certaine enough, *Cook* 4. 41. 9. 114. 9. *Fac.*

So if the Indictment be, that he gave one mortall blow about the breast, this is not good, for it must say in what part the wound is, the depth and breadth of it, if it be not a part cut off. And if there be two wounds alledged, and one of them is more uncertainly set down, this will marre the whole Indictment; if he say of the wounds foresaid he died, *Cook.* 4. 41, 5. 120. 9. 62. 114.

Indictment was for poysoning, and said that he perswaded the other that the potion was mixed with *Cantharides*, and would make him have issue, &c. not knowing the foresaid drink

Chap. 16. drink to be mixed with poyſon, but truſting the foreſaid perſwaſion (the ſaid *W.* took, and drank) omitting poyſon aforeſaid, and it was naught, and that the words following immediately after the taking of the poyſon aforeſaid will not help, for a fault in an indictment cannot be made up by implication, *Cook* 4.44.

The indictment was thus, The ſon had taken his ſick father and carried him into the cold weather, whereof he died; it was diſallowed, becauſe it wanted felonioufly, and *ſtruck* is an apt, if not a neceſſary word, for this indictment.

An indictment was, That a certain *A.B.* within the Liberty of our Lo. the King of his town of *Coſſam*, &c. under the pap (*mamillam*, *&c.*) gave a wound, &c. giving with a leaden bullet, &c. penetrating into and through the body, &c. and exceptions were taken, 1. For that the village of *Coſſam* was not ſaid to be within the Liberty, and therefore uncertain. 2. For that it was *ſubter manillam*, with a ſingle *m*, which is a word inſenſible. 3. For that it was *wound*, for that the depth and bredth of the wound was not deſcribed; but theſe were over-ruled: and another exception taken out of theſe words, That a dag with powder and a leaden bullet laden upon him *H.* he diſcharged, giving the ſame &c. one mortall wound, omitting the word *ſtruck*, and for this it was quaſhed, after outlary, and he diſcharged, *Cook* 5.20.

If an indictment be againſt *J.S.* for a ſtroke, 4. *Auguſti*, and death thereby, 19. *December*, and it goeth further, and ſaith, That *T.M.* &c. the time of the felonie and murder the 4. of *Auguſt* &c. felonioufly were preſent with ſwords &c. then and there aiding, aſſiſting, &c. it was adjudged

adjudged insufficient, for the murder was not till the last day: it should have been in manner and form aforesaid. Also in this it was agreed, that the clause of aiding, &c. is necessary in this cause, and that without it the Indictment is insufficient: for an Indictment cannot be supported by argument or implication, *Coo.* 4. 42. 47. 5. 120. 9. 62. Chap. 16.

One was indicted for taking a half-penny from another in the high-way, and assault he made was omitted, therefore the Court resolved it a good Indictment for felony, but not for robbery, and therefore he had his Clergy, *Hill.* 27. *Jac.* B. R. *Dier.* 224.

John Green was indicted for stopping an high-way leading from the village of *A.* to the village of *B.* and exception was taken, because he did not shew with what he did stop it; but it was not allowed, *Hill.* 18. *Jac.*

An Indictment was preferred in *Banco Reg:* for subornation of perjury, and the substance of it was this, that where the 25. of *January*, 18. *Jac.* divers articles were preferred in the Court of Chancery at Westminster, in the County of *Middlesex*, for the good behaviour against *I. S.* and *Henry Ockley*, then and there produced to testifie the truth of his knowledge upon the articles foresaid, then and there swore the said articles to be true according to his knowledge, whereas in truth the foresaid *H.* knew not the foresaid articles, or any of them to be true, and so the foresaid *Henry* manifest perjury, then and there committed, and that the said *Iohn Whitly* did then and there suborn him to commit the said perjury, *Contra pacem*, and against the Lawes of the Common-

wealth

Chap. 16. And two exceptions were taken to this. 1. For that he did not alledge that the articles were false. For if they be true, and he swear them so in his knowledge, though he know them not to be so, this is not perjury. But this was disallowed by the Court, and held to be perjury. And a second was taken to it, because he did not conclude, against the form of the Statute. For it was said, that perjury was no offence at common Law, except only in the same Court where it was done: but this was disallowed also. And it was held, that perjury was punishable by the common Law, *Mich. 20. Jac.*

The Inhabitants of *Epny* were indicted for suffering two cribbes to lye unrepaired, by which the water over-flowed into the highway and marred it. And exceptions were taken, because it did not shew how these Inhabitants were chargeable by prescription, and therefore quashed. But if the Indictment had said, That the Inhabitants of *Epny* ought to have repaired it, it might have been good, especially after a verdict, and the Inhabitants found guilty; For it is then to be presumed that they were satisfied how they were chargeable. And if there be a *Nusans*, by the not cleansing of a river, and it cannot be known who should do it, it seems they must do it that have or may have most benefit by it, as those whose grounds are neereſt, or have the fishing there. *Bro. Presentment*, 5. 10, 11.

A Presentment was, that he had stopped a course of water from *S.* by suffering his Trees to grow to the *Nusans*, it seems he shall not be amerced for this, till he be commanded to amend it. *Bro. Presentment* 11.

One

One was presented, that he and all those, &c. were wont to cleanse such a gutter for the ease of the high-way, *Ratione tenure ejusdem terre*, and exception was taken that he did not shew where the land is; for he may say, that the Land is not charged, or that he hath it not, or the land may lye in another County, and then it is not triable here. But if it had said by reason of the tenure of the same land, this might make it good, so if it be *Ratione terrarum in S.* in generall it is good. And in these cases, it must be the Kings high-way that suffers, else the party indicted may shew it. 5. *H.* 7. 3. *Bro. Presen.* 9, 10, 18, 22. Cha...

A Presentment that there is such a high-way, that *I. S.* by reason of his Tenure ought to repair it; that it is decayed, was ruled to be naught, because it wanted these words, from the time the contrary of which, 21 *Ed.* 4. 73. *Broo. Presentment*, 19, 20.

If the Indictment be, that a man made an 100. l. of *Alchimy* like the money of the Common-wealth, and doth not shew like what money, as groats, shillings, &c. this is not good. *Dier.* 96. So that he spake words against the King, and shew what words incertain, and then add, or such like. *Broo. Action sur le case.* Uncertainty.

An Indictment against a man that he is a common Thief, a common mis-liver, or a common Fore-staller, or a common conspirator, or a common Champertor, *Broo. Indict.* 12, 19. *Young* 117. and shew not in what particular it is void, *Plow.* 75. 29, 45. So to say of an Officer,

Chap. 16. And two exceptions were taken to this. 1. For that he did not alledge that the articles were falſe. For if they be true, and he ſwear them ſo in his knowledge, though he know them not to be ſo, this is not perjury. But this was diſallowed by the Court, and held to be perjury. And a ſecond was taken to it, becauſe he did not conclude, againſt the form of the Statute. For it was ſaid, that perjury was no offence at common Law, except only in the ſame Court where it was done: but this was diſallowed alſo. And it was held, that perjury was puniſhable by the common Law, *Mich. 20. Jac.*

The Inhabitants of *Epny* were indicted for ſuffering two cribbes to lye unrepaired, by which the water over-flowed into the high-way and marred it. And exceptions were taken, becauſe it did not ſhew how theſe Inhabitants were chargeable by preſcription, and therefore quaſhed. But if the Indictment had ſaid, That the Inhabitants of *Epny* ought to have repaired it, it might have been good, eſpecially after a verdict, and the Inhabitants found guilty; For it is then to be preſumed that they were ſatisfied how they were chargeable. And if there be a *Nuſans*, by the not cleanſing of a river, and it cannot be known who ſhould do it, it ſeems they muſt do it that have or may have moſt benefit by it, as thoſe whoſe grounds are neereſt, or have the fiſhing there. *Bro. Preſentment*, 5. 10, 11.

A Preſentment was, that he had ſtopped a courſe of water from *S.* by ſuffering his Trees to grow to the *Nuſans*, it ſeems he ſhall not be amerced for this, till he be commanded to amend it. *Bro. Preſentment* 11.

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One was presented, that he and all those, &c. were wont to cleanse such a gutter for the ease of the high-way, *Ratione tenure ejusdem terre*, and exception was taken that he did not shew where the land is; for he may say, that the Land is not charged, or that he hath it not, or the land may lye in another County, and then it is not triable here. But if it had said by reason of the tenure of the same land, this might make it good, so if it be *Ratione terrarum in S.* in generall it is good. And in these cases, it must be the Kings high-way that suffers, else the party indicted may shew it. 5. *H.* 7. 3. *Bro. Presen.* 9, 10, 18, 22. Cha-

A Presentment that there is such a high-way, that *I. S.* by reason of his Tenure ought to repair it; that it is decayed, was ruled to be naught, because it wanted these words, from the time the contrary of which, 21 *Ed.* 4. 73. *Broo. Presentment*, 19, 20.

If the Indictment be, that a man made an 100. l. of *Alchimy* like the money of the Common-wealth, and doth not shew like what money, as groats, shillings, &c. this is not good. *Dier.* 96. So that he spake words against the King, and shew what words incertain, and then add, or such like. *Broo. Action sur le case.* Uncertainty.

An Indictment against a man that he is a common Thief, a common miss-liver, or a common Fore-staller, or a common conspirator, or a common Champertor, *Broo. Indict.* 12, 19. *Young* 117. and shew not in what particular it is void, *Plow.* 75. 29, 45. So to say of an Officer,

Chap. 16. he is a general Extortioner, 25 *Edw.* 3. *Stat.* 3. *chap.* 9.

So to say they are Insidiators of the wayes, and Depopulators of the fields, they are void: 4 *H.* 4. *ch.* 2. 17 *Edw.* 4. 4.

If it be that *I. S.* of &c. (being a common deceiver of the Subjects) the 18 of *Jan.* the 17 of *Jac.* at *L* in *London* aforesaid. Two stalks of clothes (*Libratas*) instead of two clothes for 18 l. of lawful money of *Eng.* to *A. B.* of *S.* deceitfully sold, then warranting them to be Clothes, whereas he knew them to be counterfeit, &c. This is a good Indictment. *Pikes* case.

To indict a man for Battery and wounding, and not say with what weapon, nor in what part of the body he is wounded, is naught.

Yet to say that he slew a certain man unknown, or for the stealing of the goods of a man unknown, is good, *Stamf. Pl. Cor.* 95. *Young f.* 117. *Cook* 120.

If there be two degrees of an offence, as making and publishing, and the indictment speak but of one, it is naught. 6 *H.* 7. 12.

To charge a man with homicide, and not to say with what weapon, is not good. *Buttons* case, 14 *Iac. B. R.*

An Indictment that *I. S.* when he was an Officer, took from *W. S.* twenty shillings, it seems is good for extortion. *Brook* Indictments 11.

If an Indictment be against an Accessary, the manner of the Felony must be set down. And that he knowing him to have done such a Felony, did feloniously receive him; otherwise it is, if he be attainted of Felony in the same County.

And

And therefore it is not good to say he received the goods, and not the felon. *Stat.* 2. *&* 3 *Ed.* 6 *ch.* 24. nor to say that he knowing him to be a Felon at *A.* he received &c. without shewing what felony he committed, nor without saying he knowing it, received him feloniously, unless he receive one attainted with felony in the same County, 7 *H.* 6. 42, 65. 2 *Cook* 4. 43, 44. *Young* 125.

If an Indictment being, that *A.* was present when *B.* was murthered, and say not that he did strike, aid, comfort, or cause to be stricken, it was quashed, *Brook Indict.* 15.

It it be knowing those men felony &c. to have committed at *D.* feloniously he received, &c. this is naught also; for it doth not shew which of them he received. But it must be that he did receive them all four by name, or three, two, or one of them by name, 30 *H.* 6, 2. And yet if 4. be indicted joyntly, they are hereby indicted severally, *Poulton de pace* 168.

If an indictment find any matter of record, as Outlawry, or the like, that is not shewed to the Jurors under the foot of the Seal, it may be rejected, for Jurors are to find matters of fact onely, *Lamb. I P.* 503. 2. For other cause.

If a man be indicted for an offence at the Common-law, which is none, this is void, and the party must be discharged. For if it be an offence made upon a Statute, he must then be indicted upon the Statute. On the Statute, and how it shall be made, and when good, or not. Misrecital.

The indictments that are grounded upon a Statute, need not (as heretofore was used) to recite all the Statute *verbatim*, and the time of the beginning, continuance, and end thereof. Nor

Chap. 16. is it policy ſo to do; for miſrecitall is dangerous, and will make the Indictment void. But the Statute for ſubſtance muſt be purſued ſtrictly, and *in terminis* in the Indictment. And the materiall words according to the purview thereof, and the offence ſutable to it, muſt be certainly, and with full words deſcribed; for if any thing materiall in the ſetting forth of the ſtatute, and the offence be omitted, the words againſt the form of the Statute (which do only ſupply matter of circumſtance, and not of ſubſtance) will not help it. The courſe therefore is fully and certainly to deſcribe the offence againſt the tenor of the Statute, and to make the Indictment as large as the Statute, and then to conclude in theſe words, againſt the form of the Statute, or of divers Statutes of our Lord the King, &c. where there be many Statutes thereupon ſet forth and provided, and againſt the form of the Statute, omitting all that comes after, is good enough, *Plow*, 79, 80, 84. *Dalt.* 360. *Cromp.* 93, 94. *Lamb. I. P.* 592. *Young* 121. But if theſe words, againſt the form of the Statute be left out in an Indictment for an offence which is ſo by a Statute, as a Riot, or the like, the Indictment is erroneous; for the offences are not puniſhable but by the Statute, *Lamb.* 502. *Crom.* 88.

If the Statute ſay the ſubſidy not paid, or the Collector not agreed with; it is not ſufficient to lay in the Indictment, the Subſidy not paid, without ſaying the Collector was not agreed with. *Plow.* 1.

If the Indictment be according to the words of the Statute, and not according to the ſenſe, it is good enough, and the party may help himſelf by plead-

pleading, or giving in evidence the ſpeciall matter. As if an Indictment be againſt a man for taking of more then the market price, and the caſe was, that he took it of another, not of his gifts, 18, *Fa.* B.R.

An Indictment was againſt divers men, that being ſixteen years of age, they had not come to any Pariſh Church by the ſpace of a moneth; exceptions were taken, 1. Becauſe the Indictment did not ſay they were Popiſh Recuſants. 2: Becauſe they did not ſay, having no lawfull excuſe for their abſence, and quaſhed. For an Indictment upon a ſtatute muſt contain all the materiall paſſages of the Statute.

An information was exhibited in the Exchequer, and thereby an uſurious contract in certain, that the party had taken more then the ten pound for the loan of an hundred pound, did appear; ſo that it was corrupt, and it did plainly appear; and he concluded againſt the form of the Statute, and becauſe he did not ſay expreſſely that it was by corrupt loan, according to the words of the penal law, the information was adjudged inſufficient, *Cook.* 11. 58.

A. was indicted upon the ſtatute of 5. *El. c.* 1. & 2. for aiding another, knowing him to be a principall maintainer of the authority of the Biſhop of *Rome*, with theſe words, againſt the form of the Statute, but becauſe the Indictment wanted certain materiall words expreſſely mentioned in the ſtature, (*viz.*) upon purpoſe, and to the intent to extoll the authority, &c. It was by the more part of the Judges agreed to be void. *Dier.* 163.

And yet it is, that an article upon the Sta-

Chap. 16. tute, that *M.* that he did contemptuously disturb the Minister in time of divine Service, against the form of the Statute, without willingly and of set purpose, was good, 42 *Eliz. B. R. Travers* case. *Dier.* 112. *Pl.* 86.

So if one bring an Action upon the Statute of 6 *R.* 3. of a Feme ravished against the form of the Statute, and it is not said she consented to the Ravisher, is good, whereby it appeareth, that the Law is not so nice and precise in case of declaration between party and party, as it is in case of indictments, 11 *H.* 4 13, 14. *Cook* 5. 120.

If an indictment be, that *A* disseise *B* on force, against the form of the *Stat.* in the Parliament of the L. *H.* the 6. lately King of *Engl.* the eighth year of his Reign, is not good, if the entry of *A* be lawful. But it must be that *A.* expelled *B* out of his Franktenement.

A Presentment was thus:

John Smith of *Ludlow* in the County aforesaid, being the Servant, or Deputy of *Oliver Floyd*, Official and Commissary of the Bishop of *Heref.* the 27 of *Feb.* the 18 of *Jan.* extortiously required, had and received eight shillings of lawful &c. of *Thomas Maud*, of &c. for writing the Administrat. of the goods, and Chattels of *John Lile* deceased, &c. by colour of the Office of the said Commissary, and the indictment was quashed, because he did not say, Servant or Deputy of the Commissary. And afterwards he amended it, and made it, being Scribe or Deputy of the Commissary, &c. and it was quashed again.

Also another exception was taken, for that he did not say, of what value the goods were, and yet said,

ſaid, againſt the form of the Statute, for the goods may be above 40.l. and then it is a caſe omitted, and in this caſe it was agreed, that if there be any fault in the indictment, againſt the form of the Statute, will not help, *Mich.* 28. *Iac.* As if an information be for uſury, and doth not ſay corruptly againſt the form of the Statute, will not help, for thoſe words ſupply onely circumſtance, not any matter of ſubſtance, opinion of the Court, 13 *Ia.* B. R. *Dier.* 312. 363. 11. H. 4. 13. Chap. 16.

One was indicted upon the Statute of 2. *M.* for high-wayes, and divers exceptions were taken to it. 1. For that it did not ſhew who were the Surveyors then; but it was ruled that they need not be named. 2. For that it ſhewed, that they gave notice after Eaſter, and did not ſhew which Eaſter; but it was ruled, that it was ſufficient to ſay, that a day was appointed for reparations, at which day he made default. 3. For that the indictment ſaith, having two Carves of Land, and the Statute ſaith (occupying) but it was ruled to be good, for if one ſuffer his land to be freſh, yet he is within the Statute. 4. For that he did not ſay, the way to be amended, doth lead from or to a Market Town; and it was ruled to be good, for it ſaid that it was high way that leads from Town to Town. *Mich.* 21. *Ia.* B. R. by the Court.

Preſentment was thus:

That a certain *A. I.* being an Hoſtler the 1. of *Iune*, the 17. of *Iu.* had, and received at the Pariſh of *S.* of divers Subjects of our L. the King, for two hundred Buſhels of Oats, ſold, and uttered, within his Manſion-houſe, according to

Chap. 16. the rate of two ſhillings and ſix pence for the buſhell: whereas the firſt of *Iuly* the 16. of *Ia.* and after to the 7. of *Iune* the 17. of *Ia.* the common price of Oats in the Markets of Brainford, and Stanes, and other Markets of the foreſaid County of *Middleſex*, was not beyond the rate of 20.d. for every buſhell, againſt the form of the Statute, &c.

And upon non-guilty the Jury found him guilty, and divers exceptions were taken againſt it (amongſt others) that he did not alledge expreſly the common voice of the Market, but ſaid, that the price was not beyond. 2. That he ſaid, where the price was not beyond 20. d. for every buſhell, where he ought to have ſaid for any buſhell, or for Oats. 3. For that he did not ſay, that he was an Hoſtler at the time of the offence. 4. For that he ſaid of divers ſubjects, whereas he ſhould have ſaid, of divers gueſts, 5. For that he ſaid within his manſion-houſe, when he ſhould have ſaid within his Inne. 6. For that he alledgeth the ſale to be without time or place. 7. For that he ſaid, *Recepit pro* 200. *modiis avenarum Anglice* Buſhells, and ſaid not of Oats, yet the opinion of the Court was, that the Indictment was good. *Hill.* 8. *Iac.* B. R. *Iohnſons* caſe.

A Parſon was indicted in *B. R.* upon the Statute 1. *Eliz.* for not celebrating the Sacrament of the Lords Supper, according to the Rites and Ceremonies of the Book of Common-prayer, made in the time of *Ed.* 6. (*viz.*) in not placing the Communion Table in the midſt of the Chancell, or in ſome

ſome convenient place for the people, and in compelling the people to come to a Raile at the upper end of a Church, not convenient, &c. and it was quaſhed, for that it did not ſhew what rites are contained in the Common-prayer book, and it is too generall. Chap. 16.

Serjeant *Richardſon* was indicted upon the Statute of *Weſtminſter* 1. *chap.* 29. and two exceptions were taken to the Indictment. 1. In the forme, for it charged him that he ſpake theſe words, *Anglice*, He knew it to be otherwiſe: Where it ſhould have been, I know it to be otherwiſe. For otherwiſe it is incertain and inſenſible. 2. In the matter. 1. Becauſe it ought to be in pleading, not in ſpeaking, becauſe this Statute did not extend to the Star-Chamber: For this was not erected at the time of the Statute, but theſe words were laid to be ſpoken there, and it was quaſhed for inſufficiency, *Trin.* 20. *Iac. B. R.*

A. and *B.* were indicted, becauſe they rioteuſly ſuch a day, entred the Meſſuage &c. of *I.S.* at *D.* in the County of *S.* being the Franktenement of the ſaid *I. S.* againſt the Statute, &c. and it was quaſhed, becauſe he did not ſay, then being the Franktenement of *I.S.H.* 16. *Iac. B. R.*

I.S.de, &c. was indicted, becauſe he dwelling in *Brainford.* 1. *die Apr.* 7. *Iac.* and being a Pedler, at divers times and places a vagrant and idle perſon, and was a Pedler wandring at divers times and places in *Middleſex*, and that the 11. day of *May* 7. *Ia.* he went to *Hackney*, and then and

Chap. 16. and there ſold a coyſe and divers other wares at *Hackney*, and divers other places; to divers in their houſes, and out of the Fairs and markets, againſt the Laws and Statutes in this caſe provided, and ſet forth, and it was adjudged good.

One was indicted upon the Statute of 3. *Jac.* 5. at the Seſſions in the County of *Oxford*, that he having one iſſue male, did not baptize it within a moneth after the birth of it, and exception was taken to it, becauſe he did not ſay when he had it, for perhaps he had it before the Statute, and then it was out of the Statute, but this exception was not allowed, for it was ſaid it ſhould be intended after the Statute, and where the Statute ſpeaketh of queſtioning the party in a Court of Record, it ſhall be underſtood by information in the Courts at *Weſtminſter*, by Indictment in other Courts of Record.

An Indictment was for entry into one Meſſuage or tenement, and two acres of land to the ſame Meſſuage belonging: and the Indictment was farther, that out of the poſſeſſion of the Meſſuage foreſaid, he held out, and it was adjudged inſufficient, and the offenders diſcharged; for Meſſuage, or Tenement is ſo incertain, that the Court cannot tell of what to make reſtitution, and it is not good, for the Land belonging to the ſaid Meſſuage is not good, for both refer to the firſt incertainty.

One was indicted upon the Statute of 8. *H.* 6. and exception taken, becauſe in the firſt part of the Indictment is a Meſſuage, and after houſe foreſaid, and ruled good, for it is all one. *Trin.* 22. *Jac.* B. R.

One was indicted for entring into Land, and outing the Termor and and diſſeiſing the Leſſor, and

and it was found if the Leſſor refuſe reſtitution, yet the Leſſee may pray, and have it, *Trin. 7. Ja. B. R. per Williams Juſtice.* Chap. 16.

An Indictment was, that where *A.* was Leſſee for years, the Reverſion to *B.* and *C.* enter with force, and upon *A.* and diſſeiſed *B.* in the Reverſion, and omitted theſe words, and did out *A* of his Term, and it was adjudged void, for if the Leſſee be not out, the Reverſioner is not out. *Mic. 7. Jac. Shellitons Caſe.*

In the Indictment upon 8. *H.* 6. *c.* 9. it was ſaid, That he againſt whom the Bill was preferred, diſſeiſed him that preferred the Bill with force and arms, with ſword, &c. omitting with ſtrong hand expelled, adjudged good at *Stafford* Aſſizes. 22. *Eliz.* for that it ſaid, againſt the form of the Statute foreſaid, which was rehearſed in the Bill.

An action was brought upon 21. *H.* 6. for not returning a Burgeſſe. The words of the Statute are, that the Sheriff ſhall ſend his Precept unto the Mayor, and if there be none, then to the Bailiffe. And the information was that he had made his Precept to the Bailiff, and did not aver that there was no Mayor, yet ruled good, for that is intendable, unleſſe it be ſhewed on the other ſide. *Hobert. Rep.* 107.

An action was brought upon the Statute of 6 *R.* 2. of a woman raviſhed againſt the form of the Statute, and it was objected that it was not laid, that ſhe did conſent to the Raviſher, but becauſe it was laid to be againſt the form of the Statute, it was held good, 11 *H.* 4. 13, 14.

A. brought Treſpaſſe againſt *B.* upon the Statute of 51. *H.* 3. that no man be diſtreined by his beaſts of plow, &c. and count for the taking away

Chap. 16. away the Beasts of the Plow, &c. but did not shew that there was any other distresse, yet it was adjudged good, by these words, against the form of the Statute. *Dier* 312.

An action was brought upon *M.* for disturbing the Minister, &c. and and it was objected that the words (purposely and willingly) being in the Statute, are omitted in the Court, yet it was adjudged good by reason of the conclusion, against the form of the Statute. 42. *Q.B.R. Travers Case.*

13. When it is with a Certificate.

An Indictment is sometimes certified by the Justices of Peace to another, and sometimes by another, as from the Coroner, or Steward, &c. to them. And in both cases as it is certified, it may become erroneous and liable to destruction. As if an Indictment sent into the upper Bench, an Inquisition taken before the Justice of the Peace, and omit, as also divers felon. &c. or omit to conserve or assign, 12. *H.* 7. 25. 2. *R.* 3. 2. Or if it be taken at the generall Session of the Peace, and say not before what Justices of Peace, or if it omit, by the oath of honest and legall men, or if the Inquisition be taken on Tuesday and Wednesday, these are all naught, *Cook.* 9. 31. 114. *Cook* 4. 48. Or, the Jurors present, and omit all their names; Or the Inquisition taken such a day and year before *I.S.* and name no place. *Dy.* 69. *Brook. Indict.* 50. And if he shew not by what Commission the Justices took it, it seems it is not good. *Stamf* 96. 22. *Ed.* 4. 12.

If a Coroner send in an Indictment, and return it taken before *I.S.* Mayor of *London* (who is alwayes Coroner) yet if it say nor, and Coroner, it is not good, for it may not be supplied by intendment. 2. *Ed.* 4. 10. So if it be before the Coroner,

Coroner, and ſay not in what County it is. But if it ſay, before *I.S.* Coroner in the County, for of the County foreſaid it is good enough, too much ſubtilty in Law is condemned. Chap. 16.

If an Indictment be ſaid to be taken before *S.* Steward, and ſay not in what Court, and to whom he is Steward. Or it be ſaid to be taken at the great Court of *I.S.* with the Leet, or at the County of *Middleſex*, with the turn of the Sheriff, theſe are not good.

An Indictment not good to one purpoſe, may be yet good to another: as if one be indicted of felony, and the thing falleth out to be no felony, but is Treſpaſſe, then the Indictment is good for Treſpaſſe, to put the party to his fine. *Cromp.96.* If *A.* be indicted for ſtealing the goods of *B.* and the Jury do find that *C.* ſtole them, and *A.* took them, but not felonioufly from him, this is not good for the felony, but it may be good for the Treſpaſſe. But if *A.* be arreigned upon an indictment of murder taken before the Coroner, and is found not guilty, as they muſt find who did kill him. So if they do find that *C.* did it, this is good. *Stamf.90. Young 125.*

Whether an Indictment void to one purpoſe, may be good to another.

If an Indictment be, that felonioufly he cut down trees, and thoſe carried away, or with force and armes cut down trees, and felonioufly carried away, neither of theſe will make it felony, it may be a Treſpaſſe; for no felony can be in trees ſtanding, but if it be with force and arms cut down trees, and thoſe felonioufly (at another time after) took and carried away, this may be felony. And where in an Indictment of felony, felonioufly is wanting, it may nevertheleſſe ſtand good to make it a Treſpaſſe. Though an Indict-

ment

Chap. 16.

15. How, and when an Indictment may be avoided, and the party indicted discharged thereof.

dictment that is faulty (as it seems) cannot be salved by amendment, St. 18. *El.* 13. as other Records may be, yet it may be avoided by Plea. St. 37. *H.* 8. 8. before judgement, by exception for errour, before or after a Judgement, and by a Writ of Errour after a Judgement or outlawry, which may be had in the upper Bench after the removall of the Indictment thither. But if a man will avoid it for any formall fault in the addition, it must be done before the party indicted hath pleaded to the Indictment; for by it he taketh on him to be the same person. 8. *Ed.* 4. 15. 35. *H.* 6. 12. Yet Outlawries thereupon may be reversed for this defect at any time, but of other errors the party may take advantage at any time before judgement to quash, or after judgement to reverse it. But if the first Indictment be in a wrong County, or the first charge him as principall, the second as accessary after the fact.

If one have been indicted for the same offence though by another name (being called by two names) for which he is now indicted, or hath been convict for it, by appeal at the suit of the party, he may plead this and avoid the Indictment, *Dier.* 85. *Cook.* 4 40, 41. especially if it be felony, for a man must not be twice questioned for his life for the same offence, but being once convict or acquit so long as this Indictment is in force, though the new Indictment suppose the fact to be done in another year, or the Processe be erroneous, or be quashed for insufficiency, he may not be indicted *de novo*. *Poulton de pace* 169.

If the Indictment be about a thing whereof the Justices of Peace have no Conusance, as which belongs to the Justices of the Forest, or the

the like, the party indicted may plead it to the Jurisdiction of the Court, and avoid the Indictment. 21. H. 7. 31. Chap. 16.

Sir *Richard Hargrave Hill.* 17. *Jac. B. R.* was indicted for stopping of a way in the County of *York*, and he moved to be discharged, because he fourty years before had inclosed the way, and then left a good and convenient way, which had continued ever since; and the Judges of the court resolved that if the Justices of the Peace would certifie this to them he should be discharged.

If the Indictors be felons, such as have been out-lawed and quitted by pardon, and are not honest and legall men, the party upon shewing this exception it seems may be discharged. 11. *H.* 4. 35.

The Kings Pardon is a good Plea in Barre of an Indictment. So that one was indicted before of the same felony, and acquitted upon it. *Young* 124, 125.

of

Of Indictments.

Glouc. Treſpaſſe. THe Jurors for the Keepers of the Liberty of England, by authority of Parliament upon their oath preſent, that *Iames B.* lately of *N.* in the County of Glouc. Mercer, the ſixteenth day of March, the year of our Lord one thouſand ſix hundred fifty and two, with force and armes, &c. at *H.* in the County foreſaid, the cloſe of a certain *R. D.* containing by eſtimation three acres of land broke, and entred, and the hedges and germins about the cloſe foreſaid, then and there being and growing, unjuſtly took and carried away, and other things enormous to him, hath done to the grievous damage of him *R. D.* and againſt the publike peace.

Treſpaſſe in a cloſe. The Jurors, &c. that *A. B.* lately of *F.* in the County foreſaid, and *A. L.* lately of *F.* in the County foreſaid Yeoman, the tenth day, &c. year &c. with force and arms, &c. *A.* in the County foreſaid, the cloſe of a certain *I. B* Eſquire, called the Home cloſe, at *A.* foreſaid in the County foreſaid broke, and his herbs then and there growing with certain beaſts (*viz.* with their kine and hoggrels fed up, trampled, and conſumed to the grievous damage of him *I. B.* againſt the peace &c.

Treſpaſſe in ploughing. The Jurors &c. that &c. the land and ſoile of one *T. R.* Yeoman in a certain place called *B.* at *G.* foreſaid, with his plough digged, and ploughed up, to the grievous, &c. againſt the peace, &c.

The Jurors, &c. that &c. with force &c. at *L.* &c. the cloſe of one *T. M.* &c. he broke and entred,

tred; and one cart load of hay to the value of 10.s. of the goods and chattells of the foresaid *T.* then and there found, took and carried away, against the peace, &c.

In treading grasse.

The Jurors, &c. that *G.D.* &c. with force, &c. the close of one *I.K.* at *D.* in the County foresaid, called the low leaf, broke and entred, and his herb there lately growing, with his feet walking trampled, and consumed, and other things, &c. then and there did to &c. against the publike peace, &c.

A Riot, an unlawfull assembly and affray.

The Jurors &c. that &c. with force and arms, &c. *viz.* with staves, swords, and ponyards, and others arms, as well invasive as defensive; at *B.* foresaid in the County foresaid, in the common High-way, there themselves riotously, and unlawfully assembled, gathered together, and then and there riotously and unlawfully upon one *E.* in *I. G.* Gen. then and there in the peace of God, and the publique peace being, then and there assault made, and him *I. G.* then and there riotously and unlawfully beat, and evill intreated, so that of his life he dispaired, and other things enormous to him then and there, &c. to &c. and against the peace, &c.

A Riot, Rout, unlawfull assembly, and affray.

The Jurors, &c. with force &c. *viz.* with swords, staves, and knives, and other &c. in warlike manner arrayed, at &c. themselves unlawfully, riotously, and routously assembled, and all together gathered, and upon *T. P.* Gen. in the peace, &c. assault and affray made, and him then and there beat, wounded, and evill intreated, so that his life, &c.

A Riot. &c. or driving Waines over ones ground.

The Jurors &c. that *A.* and *B.* of &c. and *C. D.* lately of &c. the day and year, &c. with

Chap. 16. force and arms, &c. at &c. themſelves unlawfully, riotouſly, and routouſly aſſembled, and gathered, and they ſo aſſembled and gathered, with force and arms, &c. the cloſe of one *John T.* Gen. broke, and one Wain with peaſe loaden, upon his land unlawfully and riotouſly, and injuſtly then and there, did drive over, to the grievous &c. and againſt the peace &c.

Aſſault and affray.

The Jurors, &c. that &c. at *C.* &c. upon *I. S.* then and there in the peace &c. then and there aſſault, and affray made, and him *I. S.* then and there beat, wounded, and ill intreated, ſo that his life &c. and other &c. to &c. againſt the peace, &c.

Aſſault of a Conſtable in execution of his office.

The Jurors &c. that &c. with force and arms, &c. at *D.* &c. upon a certain *I. T.* one of the Conſtables of the Peace, of the Keepers of the Liberty of *England*, of *D.* foreſaid, in the County foreſaid, then and there in the peace &c. and in execution of his office, then and there aſſault made, and him then and there grievouſly did beat, &c. ſo that &c. and other &c. to &c. againſt the publique peace, &c.

The like.

The Jurors, &c. at &c. upon a certain *D. T.* then and there being *Conſtable* of *E.* foreſaid, in the County foreſaid, in the peace of God, and in the publike peace, being then and there aſſaulted, and him &c. ſo that &c. and other &c. to &c. to the contempt of the ſaid Lord the King, and of his Officers, and againſt the peace, &c.

Common Barretor.

The Jurors, &c. that &c. and divers other daies and times, as well before as after, at *D.* foreſaid, in the County foreſaid, as elſwhere in the County foreſaid, was, and yet is a common Barretor, calumniator, perturber of the publique peace,

peace, and a ſower of ſtrifes and diſcord betwixt the good people of this Common-wealth, and oppreſſor of his neighbours, ſo that divers ſtrifes and controverſies betwixt the ſaid people he hath moved and raiſed, to the great diſturbance of them, to the evill example of others, againſt the publike peace, &c. and againſt the form of the Statute &c. Chap. 16.

Againſt a Rogue

The Jurors, &c. that &c. at *M* in the County foreſaid, found and taken were, by *A. B.* Conſtable of the Hundred of *L.* and by *T. P.* and *F. N.* Conſtable of the Town foreſaid, themſelves then and there idly and ill a bearing and vagrant, againſt the form of the Statute, in ſuch caſe thereupon ſet forth and provided, and againſt the peace, &c.

A Conſtable not paying Goale money.

The Jurors, &c. that &c. at *S.* foreſaid in the County foreſaid, for one year laſt paſt, paid not the ſummes of moneys impoſed upon the Hundred foreſaid, towards the relief of the priſoners in the Goal, of the Keepers of the Liberty, &c. of the County foreſaid, to *Henry F.* and *T. W.* Gent. Treaſurers of the Goal foreſaid, for the ſaid year, but voluntarily made default againſt the form of the Statute, &c.

Keepers of Hounds.

The Jurors, &c. that &c. with force and arms &c. at *B.* foreſaid in the County foreſaid, ſix hounds called *Beagles* have kept, and have hunted, and the foreſaid *I. B. I. P.* and *G. H.* have not, nor hath any of them lands, or tenements, of the yearly value of 40.s. nor are, nor is either of them a ſpirituall man, againſt the form of the Statute, &c.

An Officer not executing a Warrant.

The Jurors, &c. that &c. being Conſtable of the Pariſh of *G.* foreſaid, at *G.* foreſaid in the

Chap. 16. County foreſaid, having a warrant of good behaviour againſt *T. I.* and for the apprehending the ſame *T.* to appear at the next general Seſſions of the Peace in the County foreſaid held, and then and there voluntarily his office and warrant foreſaid altogether neglected, and arreſted not him *T. I.* to the contempt of the ſaid Keepers of the Liberties, &c. and againſt the peace.

Churchwardens not paying Goal money. The Jurors, &c. that &c. *A. B.* and *C. D.* &c. being Wardens of the Church of *C.* in the County foreſaid, paid not the ſum of 20. s. being due, and to be paid by the Pariſh of *C.* foreſaid, in the County foreſaid, before the firſt day of *March*, for maintenance of the priſoners in the Goal of the County foreſaid, and the priſoners in the Marſhalſie and upper Bench, againſt the form of the Statute, &c. and againſt the peace, &c.

Milkers of Kine The Jurors, &c. that &c. with force and arms, &c. at &c. two cowes of a certain *R. D.* milked and &c. quart of Milk of the value of one penny, of the goods of *R. D.* then and there found felonioufly ſtole, took, and carried away, againſt the peace, &c.

Extortioners. The Jurors, &c. that &c. *I.* and *S.* lately of *L.* in the County of *M.* Yeomen, meſſengers of the Keepers of &c. the tenth day, &c. at *A.* in the County of *S.* 4. l. of a certain *T. G.* by colour of their offices, extortiouſly and unjuſtly took, to the grievous &c. and againſt the form of the Statute, and againſt the peace, &c.

Extortioner. The Jurors, &c. that &c. being Foreſter of the Foreſt, or chaſe of *K.* in the County foreſaid, then at *L.* foreſaid, in the County foreſaid, by colour of his office foreſaid, three pence of one

E. W. of *F.* in the County foreſaid extortiouſly, unjuſtly and unlawfully took, to the grievous, &c. and againſt the form, &c. Chap. 16.

The Iurors, &c. that &c. with force and arms, &c. at *Saul* in the county foreſaid, unlawfully and extortiouſly took of a certain *T. B.* of *S.* foreſaid, two ſhillings of lawfull money of *England* to diſcharge him *T. B.* for his appearing at the Aſſiſ. in the County foreſaid held, Munday the fift day of *March* the years aboveſaid, to inquire betwixt *E. D.* Plaintiff, and *E. W.* Defendent, Where no ſuch fee is due by Law, and after 10.s. eſtreated were out of the Exchequer, to the great contempt of the Keepers of the Liberties, &c. againſt the peace, &c. and againſt the form of the Statute. The like.

The Iurors, &c. that &c. *A. B. K. N.* and *T. W.* of the age of fourteen years, and more, being ſound, & ſtrong of body, & able to labor, not having lands or tenements, nor maſters, nor exerciſing any lawfull merchandiſe, art, or ſcience, wherby their livelihood they may lawfully gain, nor can give any juſt account of their life, were taken at *M.* in the County foreſaid, the tenth day, &c. as common Rogues incorrigible, refuſe to labour, idly live, and ill themſelves behaving, againſt the form of the Statute in ſuch caſe ſet forth, &c. and againſt the peace, &c. Rogues.

The Iurors, &c. that *T. C.* lately of &c. ſuch day and year, being Conſtable of the Peace of the Pariſh of *A.* in the County foreſaid, at *A.* foreſaid in the County foreſaid, divers Rogues and ſturdy beggers, through his liberty unpuniſhed, permitted to paſſe to the evil example of other officers, againſt the publike peace, &c. and againſt the form, &c. Againſt a Conſtable for not puniſhing Rogues,

Chap. 16.

Erectors of a Cottage.

The Iurors, &c. that &c. one Cottage for habitation erected and built, and then, and as yet for habitation useth, where in truth four acres of Land according to the form, and Ordinance of the Statute, and of land measured of his Franktenement, and with the said cottage continually to be occupied, are not, nor at any time before were laid to it or assigned, against the form of the Statute, &c.

Continuing a Cottage.

The Iurors, &c. that &c. and therehence by the space of six moneths, at *P.* foresaid, in the County foresaid, a certain cottage for habitation lately erected and built, then and there by the space foresaid for habitation voluntarily upheld, continued and maintained, where in truth foure, &c.

For converting an house into a Cottage.

The Iurors, &c. that &c. one house lately erected and built, then and there into a cottage for habitation converted, and ordained, and then, and as yet for habitatiun by one *I.H.* useth, where in truth, &c.

For placing of a Tenant in a Cottage.

The Iurors, &c. that &c. a certain cottage for habitation erected and built, and that a certain *T. S.* by the space of four moneths then next following, the foresaid first day of *April*, the year abovesaid in that cottage dwelleth, and for it his habitation useth, where &c. by the foresaid *T. S.* never, &c.

For Inmates in a Cottage.

The Iurors, &c. that &c. received, and placed in one cottage under one roofe, certain *H.F.* labourer, and *A. B.* Weaver to inhabit together, and then, and as yet, *viz.* by the space of two whole moneths, together they inhabit against the form of the Statute, &c.

For Inmates in a mans own house.

The Jurors, &c. that &c. received, and placed

a

a certain *T. G.* to inhabit together with the said *A.* in one cottage under one roof, at *S.* foresaid in the County foresaid, and then and therehence by the space of three moneths then next following, together they inhabit, &c. against the form of the Statute, &c. Chap. 16.

Coyning money

The Jurors, &c. that &c. not having God before his eyes, but by instigation Diabolicall seduced, and machinating the people of *England* craftily, falsly, deceitfully, and traiterously to deceive, and defraud, the tenth of *Nov.* the year of &c. of his own wrong, without any lawfull authority or warrant, at *W.* foresaid, in the County foresaid, because of wicked gain, three pieces of false money of tin, and other false mettall, and mixt in the likenesse, and semblance of the good and true money of *England*, called shillings, or pieces of twelve pence, falsly, deceitfully, and traiterously did make, forge, and counterfeit, and the same pieces of false money, of false mettall mixed by him, &c. falsly and traiterously made, and counterfeited after the 20. day of *N.* the year aboveſaid, and divers other daies, after at *W.* foresaid, and elsewhere in the said County of *S.* for good, lawfull, and current money of *England*, to divers lawfull and honest persons of *England*, falsly and traiterously paid, exposed, and uttered in payment, to the great prejudice, fraud, and deceit of the people of *England*, and against the peace, &c. and against the form of the Statute, &c.

Scandalous words against the King and Queen.

The Jurors, &c. that &c. not having God before his eyes, but by instigation Diabolicall seduced, and his faith, ligeance, and obedience, toward the same Lord the King, Lady the Queen,

Chap. 16. neglecting, and ſmally weighing, the ſeventh day of *I.* the year, &c. at *C.* foreſaid, in the County foreſaid, malitiouſly from his own imagination brought forth and pronounced certain falſe, ſeditious, and ſcandalous words of the ſaid Lord the King, and Lady the Queen as followeth, *viz.* *I ſhould have gone forth as a petty Captain, but the ſouldiers were but Beggers and Rogues, as the King himſelf is: For the King is a Rogue, and a very wild Rogue, and that ſince the Queen drew unto the King, ſhe hath wrought nothing but treaſon againſt the Realm,* to the great diſhonor of the ſaid King and Queen, and againſt the peace, and againſt his due ligeance, and againſt the form of the Statute.

Speaking againſt the Scriptures.

The Jurors, &c that &c. day and year &c. at &c. certain words falſe and ſcandalous ſaid, and pronounced, viz. *That the Scriptures, and that which by Preachers was delivered out of the Pulpits, were but matters of courſe to keep men in awe, and that the Scriptures were invented by men,* to the contempt of the Laws of this Common-wealth, and of the Faith Catholike, and to the evill example of others, and againſt the peace and againſt the form of the Statute.

Robbery.

The Jurors, &c. that &c. with force and arms, &c. at *S.* &c. in the common High way there, upon a certain *I.* in the peace of God, and in the publike peace then and there being aſſault made, and him *I.* in great fear, and perill of his life, then and there put, and the ſame *I.* out of the common high-way foreſaid with force and arms, &c. unto a certain wood in *S.* foreſaid in the County foreſaid, neer the common high way foreſaid, being then brought, and ſix pounds in moneys

moneys told, one gold ring of the value of 6. s. and one coat of the value of 40. s. of the goods and chattells, and pence of the foresaid *I.* from the person of him *I.* in the wood foresaid, in *S.* foresaid, in the County foresaid, then and there neer the common high-way foresaid, the day and year abovesaid felonionsly did steale, take, and carry away, against the publike peace, &c. Chap. 16.

The Iurors, &c. that assault he made, and ten yards of black velvet to the value of 20. l. of the goods and chattells of *T.* being in a certain wain in the custody of the foresaid *I.* at &c. in the common high-way foresaid, from the person of a certain *I.* feloniously did steal, take, and carry away, against the peace. &c. Robbery.

The Iurors &c. present &c. that &c. with force and arms, &c. at &c. five shillings in moneys told in a certain purse of a certain *A. B.* then being and found, of the goods and pence of the foresaid *A.* privily and secretly, and without the notice of him, *A.* then at *M.* foresaid, in the Count foresaid, &c. feloniously did steal, take, and carry away, against the publike peace. Picking a purse

Iurors, &c. that &c. one purse of the value of 1 d. and 2. s. in moneys told in the same purse then being of the goods and pence of a certain *I. C.* from the person of *Iohane C.* wife of the foresaid *I. C.* privily and secretly, and without the notice of her *Iohane C. &c.* Cutting a purse

The Iurors, &c. that with force, &c. at &c. twelve Ewes of white colour did pull, and the wooll of the same sheep from their skins to the value of 3. s. of the goods and chattells of a certain *T. C.* then &c. there found, &c. feloniously, &c. did steale. Pulling of sheep

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Chap. 16. neglecting, and ſmally weighing, the ſeventh day of *I.* the year, &c. at *C.* foreſaid, in the County foreſaid, malitiouſly from his own imagination brought forth and pronounced certain falſe, ſeditious, and ſcandalous words of the ſaid Lord the King, and Lady the Queen as followeth, *viz.* *I ſhould have gone forth as a petty Captain, but the ſouldiers were but Beggers and Rogues, as the King himſelf is: For the King is a Rogue, and a very wild Rogue, and that ſince the Queen drew unto the King, ſhe hath wrought nothing but treaſon againſt the Realm,* to the great diſhonor of the ſaid King and Queen, and againſt the peace, and againſt his due ligeance, and againſt the form of the Statute.

Speaking againſt the Scriptures.

The Jurors, &c that &c. day and year &c. at &c. certain words falſe and ſcandalous ſaid, and pronounced, viz. *That the Scriptures, and that which by Preachers was delivered out of the Pulpits, were but matters of courſe to keep men in awe, and that the Scriptures were invented by men,* to the contempt of the Laws of this Common-wealth, and of the Faith Catholike, and to the evill example of others, and againſt the peace and againſt the form of the Statute.

Robbery.

The Jurors, &c. that &c. with force and arms, &c. at *S.* &c. in the common High way there, upon a certain *I.* in the peace of God, and in the publike peace then and there being aſſault made, and him *I.* in great fear, and perill of his life, then and there put, and the ſame *I.* out of the common high-way foreſaid with force and arms, &c. unto a certain wood in *S.* foreſaid in the County foreſaid, neer the common high way foreſaid, being then brought, and ſix pounds in moneys

moneys told, one gold ring of the value of 6. s. and one coat of the value of 40. s. of the goods and chattells, and pence of the foresaid *I.* from the person of him *I.* in the wood foresaid, in *S.* foresaid, in the County foresaid, then and there neer the common high-way foresaid, the day and year abovesaid felonionsly did steale, take, and carry away, against the publike peace, &c. Chap. 16.

The Iurors, &c. that assault he made, and ten yards of black velvet to the value of 20. l. of the goods and chattells of *T.* being in a certain wain in the custody of the foresaid *I.* at &c. in the common high-way foresaid, from the person of a certain *I.* feloniously did steal, take, and carry away, against the peace. &c. Robbery.

The Iurors &c. present &c. that &c. with force and arms, &c. at &c. five shillings in moneys told in a certain purse of a certain *A. B.* then being and found, of the goods and pence of the foresaid *A.* privily and secretly, and without the notice of him, *A.* then at *M.* foresaid, in the Count foresaid, &c. feloniously did steal, take, and carry away, against the publike peace. Picking a purse

Iurors, &c. that &c. one purse of the value of 1 d. and 2. s. in moneys told in the same purse then being of the goods and pence of a certain *I. C.* from the person of *Iohane C.* wife of the foresaid *I. C.* privily and secretly, and without the notice of her *Iohane C. &c.* Cutting a purse

The Iurors, &c. that with force, &c. at &c. twelve Ewes of white colour did pull, and the wooll of the same sheep from their skins to the value of 3. s. of the goods and chattells of a certain *T. C.* then &c. there found, &c. feloniously, &c. did steal. Pulling of sheep

The

Chap. 16.

Fleying of sheep.

The Iurors, &c. one weather of black colour did flay and kill, and the skin of the ſame Weather the value of 12.d. of the goods and chattells of him *T. C.* then at *B.* &c. found &c. feloniouſly did ſteal, and take againſt the publique peace, &c.

Stealing of ſheep.

The Iurors, &c. that &c. with force &c. at &c. one Ewe of white colour, of the price of 12. d. of the goods and chattells of a certaine *T.* then and there found, then and there feloniouſly did ſteal, take, and drive away againſt the publike peace, &c.

For Felony

The Iurors, &c. that &c. one cup, The originall is *Bibulum*, which can ſignifie nothing here, the French *Bibul*, is a drinking pot of 10.s. of the goods and chattells of a certain *I.* then &c. did take and carry away againſt the publike peace, &c.

Againſt horſe-ſtealing.

The Iurors &c. that *T. T.* lately of &c. with force &c. at *C.* in the County foreſaid, one Mare of Bay colour, of the price of 5. l. of the goods and chattells of *A. N.* then and there found, then and there feloniouſly did ſteal, take, and drive away againſt the publike peace, &c.

Burglary

The Iurors that *R. L.* &c. at *L.* &c. the manſion houſe of a certain *E.* burglarily broke, and entred, and one gold ring of the price of 4. s. one ſilver bowl to the value of 20.s. of the goods and chattells of a certain *E.* then and there feloniouſly took and carried away, againſt the publike peace, &c.

Felony and acceſſary.

The Iurors, &c. that *A.* &c. one Oxe &c. and drive againſt the Peace, &c. and that *T.* lately of &c. labourer, knowing the foreſaid *A.* the felony foreſaid, in manner and form foreſaid, to have

have done and committed, the said day and year, at *C.* aforesaid, feloniously received, lodged, and maintained against the publike peace, &c. Chap. 16.

The Jurors, *&c.* that *A.* of *M.* in the County aforesaid, not having God before his eyes, but by instigation Diabolicall seduced, the tenth day, *&c.* within the mansion house of *D.* in a certain place there called *N.* upon a certain *L.* lately of *M.* aforesaid, then and there being assault made, and the day, year, and place aboveſaid, with the same *L.* the detestable sin of *Sodomy*, and coition masculine called Buggery, did, committed, and perpetrated, and him *I.* then and there, as also divers daies before, and after against the due use of nature, sodomitically, vitiated, vidated, and carnally knew, and against the publike peace, &c. Buggery.

The Jurors, &c. that &c. with a certain Mare, then and there the detestable, and abominable sin of Buggery feloniously did, committed, and perpetrated, and the same Mare then and there, against the due use of nature, feloniously and carnally knew, against the form, &c. Buggery.

The Jurors, *&c.* that with force and arms, *viz.* *&c.* staves, swords, and ponyards, the mansion house of a certain *I.* at *C.* foresaid, in the County foresaid, about the nineth hour in the night, of a certain day, feloniously and burglarily did break, and enter, and the same *I.* in the same house, in the peace of God, and in the publike peace, at *W.* foresaid: then being in great fear, and danger of his life put, and two pieces of white Kersie, containing 80. yards, to the value of 15. s. and twenty marks in moneys told, of the goods and chattells, and pence of the same *I.* Burglary.

at

Chap. 12. at *W.* foreſaid, in the County foreſaid, in the ſame houſe then found, feloniouſly did ſteal, take and carry away, againſt the publike peace, *&c.*

The Jurors, *&c.* that *&c.* with force and arms, *&c.* upon a ceatain *T.* at *&c.* aſſault made, and certain things poyſonous into a certain Pancake then and there feloniouſly and traiterouſly put, *&c.*

Breaking Priſon.

The Iurors, *&c.* that *&c.* *A.* lately of *S.* by *I.* Eſquire, one of the Iuſtices of the Commonwealth, the peace in the County foreſaid, to conſerve, aſſign. committed was to the Goal of the County of *Glouc.* in the Caſtle of *Glouc.* for divers felonies by him *A.* done, and perpetrated, there to abide, untill by due form of Law, thence he ſhould be delivered, the foreſaid *A.* the 20. day of *I.* the year, *&c.* with force and arms, *&c.* at the Caſtle of *Glouc.* in the County of *Glouc.* foreſ. the Goal foreſ. in which detained he was, feloniouſly and wilfully did break, & out of the ſame Goal did eſcape, againſt the publike peace, *&c.*

A Townſhip for eſcape of a priſoner.

The Iurors, *&c.* that whereas *I.* and *P.* *&c.* for ſuſpition of a certain felon. and rob. by them done and perpetrated, *viz.* of that that they the 20. day, *&c.* at *C.* in the County of *W.* in the common high-way there upon a certain *I. P.* in Gods peace *&c.* aſſault made, and him in great fear and peril of his life, then and there put, and 4. *l.* in moneys told of the goods, and pence of the foreſaid *I.* then and there in the common high-way foreſaid, felonious did ſteal, take, and carry away, againſt the publike peace, *&c.* and therefore after, *viz.* the 29. day, *&c.* at *&c.* by a certain *T. W.* taken and arreſted were, and by *N. C.* one of the Iuſtices of the Common W. the Pleas of the Common W. before

before him to hold, assign. and one of the Iustices of the said Common W. the peace in the county foresaid to conserve, and divers felonies, trespasses, and other misdeeds in the same county done to hear and determine, assign. to the Goal or prison of the said county, in *R.* in the county of *W.* under the custody of *C. S.* of *R.* foresaid in the county foresaid then Warden of the same Goal of the county foresaid at *R.* in the county foresaid committed were, safely and surely under the custody foresaid to be kept, uutill the said *I.* and *P.* by due forme of Law should be delivered. And whereas the foresaid *I.* and *P.* the tenth day and year, *&c.* at *R.* foresaid the Goal or prison of the said county, with force and armes, *&c.* feloniously did break and out of the custody of the said *C.* feloniously escaped, and at large went, against the publique peace, *&c.* and against the form of the Statute, *&c.* And nevertheless after the felony foresaid, in form foresaid done the 20. day *&c.* the same *I.* and *P.* by negligence of the Burgesses, or Townesmen of *R.* foresaid as felons foresaid fled, and themselves withdrew, and in default of good custody, and of Government of the Burgesses or Town foresaid, then and there escaped, to the pernitious example of other Townes in such case hereafter offend. and in contempt of their true obedience to the Lawes of this Realm of *England*, and against the form, *&c.* **Chap. 16.**

The Iurors, *&c.* whereas *D. &c.* at *&c.* lawfully had arrested a certain *H.* lately *&c.* for suspition of a certain felony and murder by him done and perpetrated, *viz.* For that, that he the same *H.* the 10. day, *&c.* with force and armes, *&c.* at *&c.* feloniously procured a certain *D.* lately, *&c.* to

For a Felonious rescue.

Chap. 16. to ſlay and murder a certain R. of &c. who the foreſaid R. after *viz.* the twentieth day, &c. by the foreſaid felonioufly ſlew, and murdered, againſt the publike peace, &c. That the foreſaid *H.* after *viz.* the two and twentieth day, *&c.* for the felony and murder foreſaid, by the foreſaid *I. G.* ſo arreſt himſelf with force and arms, &c. at &c. from the cuſtody of the foreſaid *I.* feloniouſly reſcued, againſt the publike peace, &c.

Witchcraft. The Jurors, &c. that &c. not having the fear of God before his eyes, but by inſtigation Diabolicall ſeduced, certain evills, and Diabolicall arts, called Witchcrafts, Inchantments, Charms, and Sorceries, wickedly and Diabolically at *H.* &c. did exerciſe and uſe, by reaſon of which a certain *W. P.* lately *&c.* in his goods and chattells many waies hurt, and impaired is againſt the publike peace, *&c.* or thus, with thoſe Inchantments then and there, a certain Sow of the goods and chattells of a certain *L.* ſhe did deſtroy and conſume, againſt the peace, *&c.*

Witchcraft. The Jurors, &c. that &c. wickedly, diabolically, and felonioufly at *&c.* did uſe, with the intention to deſtroy a certain *I.* of *&c.* by reaſon of which the foreſaid *I.* in his body, many waies hurt and impaired is; and him *I.* into great perill of his life ſhe put, againſt the publique peace, &c. and againſt the form, &c.

Witchcraft. The Iurors, &c. that &c. and before certaine inchantments, and certain evill and Diabolicall arts, &c. with the intention to ſlay, and murder a certain *I.* lately &c. by reaſon of which exerciſings of evill arts, the foreſaid *I.* the nineteenth day &c. to his death came, and his life loſt againſt the peace, &c. and againſt the forme, &c.

The

The Jurors, &c. Whereas *G.* lately &c. hired, and received, was in the ſervice of the Common-wealth, by the payment of 4.d. commonly called his Preſſe-money, to ſerve the ſaid Common-wealth, as a common Soldier, in the North parts againſt the Enemies, and Rebels of the ſaid Common-wealth under the condition, and retaining of a certain *T.* his Captain; That the aforeſaid *G.* the tenth day, &c. at *L.* &c. from his Captain aforeſaid, without his Licenſe, feloniouſly departed, went, fled, and himſelf withdrew, to *D.* &c. to the evil and pernicious example of others in ſuch caſe offend. and againſt the form, &c. peace, *&c.* Chap. 16. Soldiers departing, &c.

The Jurors, *&c.* That, *&c.* not having God before their eyes, but by inſtigation Diabolical, ſeduced, the firſt day, *&c.* with force, and armes, *&c.* one Barn of a certain *R.* at *&c.* divers Graines in the ſame Barn then being, to the value of 10.l. of the goods of him, *R.* with fire did burn, and the Barn aforeſaid, and Graines aforeſaid in the ſame Barn then and there being, felonioufly and wholly did burn, to the evil example of the people, *&c.* and againſt the publique peace. For firing a Barn.

The inquiſition taken for the Keep. *&c.* at *C.* in the County of *G.* the tenth day of *May*, the year of our Lord one thouſand ſix hundred fifty two, *&c.* by the Oath of *A. B. C. D. &c.* honeſt and Legal men of the County aforeſaid, before *W. S.* Eſq. one of the Juſtices of the ſaid County, the Peace in the ſaid County, to conſer. Aſſign. who ſay upon their Oath, That the aforeſaid *G. H.* of *W.* in the County of *G.* Gent. the ſixth day of *April*, the year aboveſaid long, and lawfully, Forcible entry.

Chap. 16. fully, and peaceably was poſſeſſed (divers years yet to come) of and in one Meſſuage, with the appertinences in the Pariſh of *N.* in the county aforeſaid, and in his poſſeſſion continued, until certain *T. H.* of *L.* in the county of *G* Gent. and other Melefact. unknown the ſame ſixth day of *April*, the year aboveſaid, with force and Armes, *viz:* Staves, Knives, and other Armes, as well defenſive, as invaſive, into the Meſſuage aforeſaid, with the appertinences did enter, and him *G. H.* thence the terme aforeſaid, not yet finiſhed expelled, and with ſtrong hand caſt out; and the ſame *G. H.* thence ſo expelled, and caſt out from the ſame Meſſuage with the appertinences from the aforeſaid ſixth day aboveſaid, to the day of the taking this inquiſition, with ſtrong hand held out, and as yet they hold out, to the great perturbation of the publique Peace, and againſt the form of divers Statutes, in ſuch caſe ſet forth, and provided, in *&c.* of which *&c.*

A certain unknown perſon is good.

Force in Lands. The Jurors, *&c.* that *A. B.* &c. and *T. C.* of *L.* &c. ſuch day, *&c.* at *N.* *&c.* into two Acres of Land arable with the appertinences lying in *&c.* then being the franktenement of *R.* Gent. with force and arms, and ſtrong hand, and unlawfully upon the poſſeſſion of a certain *T. H.* Farmer of the ſaid *R.* have entred, and ingreſſe made, and the foreſ. *T. H.* with force and arms foreſ. and ſtrong hand, and unlawfully then thence have expelled and caſt out, and the foreſ. *Ric.* with force and arms, and ſtrong hand thereof diſſeiſed, and the foreſ. *Ric.* ſo thereof diſſeiſed, from the foreſ. day and year, to the taking of this Inquiſition, of the foreſaid two acres of Land, with force, and armes, and ſtrong hand, and

and unlawfully have held out; and yet hold out, in contempt of the Laws of this Common-wealth, and to the grievous damage of him *R.* and against the peace, and against the form, *&c.*

The Iurors, *&c.* very many other malefactors, and of the publike peace perturbers unknown, the tenth day, *&c.* with force *&c. viz.* with staves, knives, and other armes at *S. &c.* into two acres of meadow, lying in *S. &c.* then in the possession of a certain *R.* and then being the Franktenement of *I.* and *T.* have entred, and the fores. *R.* from the possession of the said two acres of meadow, then and there cast out, and the fores. *I.* and *T.* injustly without judgement disseised, and the aforesaid *R.* from the possession of the said two Acres of Meadow, then, and from thence to the twentieth day of the same moneth, with force, and armes, and strong hand have held out, and yet hold out against the Peace, and against the form, *&c.* For unlawfull possess. Forcible entry.

The Iurors, *&c.* that he was inhabitant in the Parish of *F. &c.* and chosen in the office of an Overseer of the common high-wayes within the Parish aforesaid, for one year from thence next following, yet the aforesaid *I.* the office aforesaid contemning from the day fores. to this time altogether voluntarily neglected, against the forme of the Statute, *&c.* For not executing the work of Overseers.

The Iurors, *&c.* being chosen, named and appointed to be one of the Overseers of the common high-waies for one *&c.* within the Parish fores. at the time within the fors. year hath laboured, nor caused the Inhabitants of the Parish fores. to labour, for the repair and amendment of the Kings high-waies fores. according to the The like.

Chap. 16. fully, and peaceably was poſſeſſed (divers years yet to come) of and in one Meſſuage, with the appertinences in the Pariſh of *N.* in the county aforeſaid, and in his poſſeſſion continued, until certain *T. H.* of *L.* in the county of *G* Gent. and other Melefact. unknown the ſame ſixth day of *April*, the year aboveſaid, with force and Armes, *viz:* Staves, Knives, and other Armes, as well defenſive, as invaſive, into the Meſſuage aforeſaid, with the appertinences did enter, and him *G. H.* thence the terme aforeſaid, not yet finiſhed expelled, and with ſtrong hand caſt out; and the ſame *G. H.* thence ſo expelled, and caſt out from the ſame Meſſuage with the appertinences from the aforeſaid ſixth day aboveſaid, to the day of the taking this inquiſition, with ſtrong hand held out, and as yet they hold out, to the great perturbation of the publique Peace, and againſt the form of divers Statutes, in ſuch caſe ſet forth, and provided, in *&c.* of which *&c.*

A certain unknown perſon is good.

Force in Lands. The Jurors, *&c.* that *A. B.* &c. and *T. C.* of *L.* &c. ſuch day, *&c.* at *N.* *&c.* into two Acres of Land arable with the appertinences lying in *&c.* then being the franktenement of *R.* Gent. with force and arms, and ſtrong hand, and unlawfully upon the poſſeſſion of a certain *T. H.* Farmer of the ſaid *R.* have entred, and ingreſſe made, and the foreſ. *T. H.* with force and arms foreſ. and ſtrong hand, and unlawfully then thence have expelled and caſt out, and the foreſ. *Ric.* with force and arms, and ſtrong hand thereof diſſeiſed, and the foreſ. *Ric.* ſo thereof diſſeiſed, from the foreſ. day and year, to the taking of this Inquiſition, of the foreſaid two acres of Land, with force, and armes, and ſtrong hand, and

and unlawfully have held out; and yet hold out, in contempt of the Laws of this Common-wealth, and to the grievous damage of him *R.* and against the peace, and against the form, *&c.* Chap. 16.

The Iurors, *&c.* very many other malefactors, and of the publike peace perturbers unknown, the tenth day, *&c.* with force *&c. viz.* with staves, knives, and other armes at *S.* *&c.* into two acres of meadow, lying in *S.* *&c.* then in the possession of a certain *R.* and then being the Franktenement of *I.* and *T.* have entred, and the foresl. *R.* from the possession of the said two acres of meadow, then and there cast out, and the foresl. *I.* and *T.* injustly without judgement disseised, and the aforesaid *R.* from the possession of the said two Acres of Meadow, then, and from thence to the twentieth day of the same moneth, with force, and armes, and strong hand have held out, and yet hold out against the Peace, and against the form, *&c.* For unlawfull possess. Forcible entry.

The Iurors, *&c.* that he was inhabitant in the Parish of *F.* *&c.* and chosen in the office of an Overseer of the common high-wayes within the Parish aforesaid, for one year from thence next following, yet the aforesaid *I.* the office aforesl. contemning from the day foresl. to this time altogether voluntarily neglected, against the forme of the Statute, *&c.* For not executing the work of Overseers.

The Iurors, *&c.* being chosen, named and appointed to be one of the Overseers of the common high-waies for one *&c.* within the Parish foresl. at the time within the forsl. year hath laboured, nor caused the Inhabitants of the Parish foresl. to labour, for the repair and amendment of the Kings high-waies foresl. according to the The like.

Chap. 16. form of the Statute, by which the common high-waies within the Pariſh foreſ. very much ruinous and unrepaired are, to the grievous damage of the Inhabitants of *D.* foreſ. and of other honeſt perſons by that way paſſing, againſt the peace, and againſt the form, &c.

For ſuch perſons returned by the Juſtices of peace for not working at the high-waies.

The Jurors, &c. that the eleventh day &c. it was preſent. by *A. B. W. C.* Overſeers of the common high-waies within the Pariſh and Town of *D.* in the County foreſ. before *W.* Eſq. one of the Juſtic. of the ſaid County, the peace in the county foreſ. to keep, and by him nowpræſ. that *I.* &c. having, & occupying one carve of land, called a plow Land within the Pariſh of *C.* foreſ. at none of the ſix daies in the moneth of *May* laſt paſt, named and appointed by the foreſaid *L.* and *P.* Overſeers of the common high-waies within the ſaid Pariſh, did find, or ſend any cart furniſhed, with horſes, oxen, and other beaſts, and neceſſary inſtruments, according to the manner of the country there toward amendment, and repair of the ſaid high-waies, or any of them, but voluntarily made default, againſt the form of the Statute, &c.

For divers neglecting to work or to find one to work at the high-waies.

It was &c. that *A. B.* and *C.* &c. being Inhabitants of the Pariſh of *C.* foreſ. &c. at none (as the laſt) found or ſent, or any of them found, or ſent any able man with neceſſary inſtruments, according to the manner of the country, to labour towards, &c. but voluntarily have made default, and every of them hath made default, againſt the form of the Statute, &c.

For not working with a plow.

The Jurors, &c. that having and occupying one plow land, &c. (ſee before)

For not repairing the high-waies.

The Jurors, &c. that the Inhabitants of &c. by

by the ſpace of one moneth, and more, how laſt paſt, at *F.* foreſ. in the County foreſ. have permitted, and yet permit the Kings high-way, there leading from *C.* in the County foreſ. to *D.* in the County foreſ. to be very much ruinous and unrepaired, and in great decay, in default of reparation, by the default of the Inhabitants of *F.* foreſ. in the county foreſt ſo that the people of this Common-wealth, by that way journeying without great perill of their lives cannot go and return, to the grievous nuſance of the ſaid people, &c. againſt the peace, &c. Chap. 16.

The Jurors, &c. that all the people of the ſaid Common-W. from the time the contrary of which is not in the memory of men, uſed to have a common way and paſſage, as well on foot, as horſe-back, with their carriages of horſes, and cattell in *F.* in the County foreſ. through a certain lane, leading from the Town of *F.* in the county foreſt to the town of *W.* &c. which lane the Inhabitants and tenents of *W.* continually and from time to time, to repair, ſcoure, and amend ought, have been accuſtomed and uſed, yet the Inhabitants from ſuch a time &c. that lane in ſuch decay and ruine to be have permitted, that the foreſ. people of &c. cannot by that lane travel, paſſe, and journey without great perill of their lives, and of their cattell, and loſſe of their goods, to the grievous damage of the people of &c. and to the evil example of other Inhabitants, and againſt the peace, &c. For a nuſance in the high-way.

The Jurors, &c. that whereas a certain common way, from the time the contrary of which is not in the memory of man, was in a certain place called *N.* in the county foreſ. leading to a For ſtopping up the high-way.

Chap. 16. certain market Town called *A.* in the county foresᵗ. from the market Town called *B.* in the county foresᵗ. By which way the people of this Common-W. from the time which the memory of man is not hitherto usᵈ were, and have accustomed to passe, and travell, with their carts, wains, and other carriages from the town of *A.* foresᵗ. in the county foresᵗ. to the town of *B.* in the county foresᵗ. That a certain *A. B.* of &c. the tenth day &c. with force and arms, &c. at &c. the way foresaid in *N.* foresᵗ. in the county foresᵗ. stop up, and obstruct, and that so stopped up, and obstructed, yet holdeth, by which the people of &c. foresᵗ. by the way, foresᵗ. with their carts, waines and carriages, cannot passe, and travell; to the grievous damage, disturbance, and common nusance of the people of &c. and against the form, &c. and against the peace, &c.

For suffering an escape after an arrest.

The Jurors, &c. that &c. being one of the Tythingmen of the Duchy of *Lanc.* in the county foresᵗ. the ninth day &c. by warrant of *W.* Esq. one of the Justice of the county foresᵗ. the peace in the county foresᵗ. to conserve assign. to the same *L.* direct. at &c. took and arrested a certain *T.* lately &c. to answer those things which of the part of the said Lord the King shall be objected to him, yet the foresᵗ. *L.* the tenth day &c. at &c. him *T.* then, and there, in his custody being, so negligently kept, that for default of good and sufficient custody, the same *T.* from the foresᵗ. *L.* then and there evaded, and at large to go escaped, to the evill and pernitious example of other the people of the Common-wealth, &c. and against the publike peace.

For making an escape after arrest.

The Jurors, &c. that &c. being &c. (as the last)

laſt) yet the foreſ. *I.* the tenth day &c. at &c. with force and armes unlawfully himſelf from the cuſtody of the foreſ. *T.* reſcued, and eſcaped, againſt the peace, &c. Chap. 12.

The Jurors, &c. that whereas *I.* Eſq. one of the Juſtices &c. by his warrant bearing date, &c. commanded the Conſtable of &c. to take and apprehend the body of *T.* of &c. and him ſafely to bring before him *I.* &c. and *W.* being Conſtable of &c. the tenth day, &c. thence forth next following at &c. by vertue of the warr. foreſ. did arreſt the foreſ. *T.* according to the tenor of the warr. foreſ. yet the foreſ. *T.* the warr. foreſ. little regarding, but contemning, then and there with force and arms after the arreſt foreſ. himſelf from the cuſtody of the foreſ. Conſtab. reſcued, and at large went againſt the publique peace, and againſt the form, &c. For the like.

The Jurors, &c. that whereas *I.* tythingman of *W.* foreſ. in the county foreſ. ſuch day, and yeare at *W.* foreſ. in the county foreſ. by vertue of his office foreſ. had taken a certain perſon unknown, and vagrant for ſuſpition of felony, *viz.* for ſtealing one piece of linnen cloth of the value of 10. l. of the goods and chattells of a certain *W. W.* and that perſon unknown, for the felony foreſ. taken committed, and delivered to certain *R.* and *T.* Inhabitants of the Town of *W.* in the county foreſ. by them ſafely, and ſurely to be kept for ſuſpition of the felony foreſ. yet *R.* and *T.* after *viz.* the foreſ. day, and year, at *W.* foreſ. in the county foreſaid, the foreſaid perſon unknown, for the ſuſpition of the felony foreſ. &c. out of their cuſtody at large whither he would for defect of good cuſtody to go negligently permitted, againſt the publike peace, &c. For an eſcape of a felon, being delivered by a tythingman to others.

Chap. 16. The Jur. &c. that whereas *T.* Esq. one of the
For a Rescue. Justices of the said Coun. the Peace in the Coun. foresᵗ. to conserve, assign. commanded a certain *R.* Constable of the tything of *C.* in the County foresᵗ. that he should take a certain *I.* lately of &c. and the same *I.* before the said Justice cause to be brought, to answer those things, which of the said Keep. of &c. should be objected against him, by vertue of which warrant the same Constable such day and year, at *W.* foresᵗ. in the county foresᵗ. took, and arrested the foresᵗ. *I.* and him in his custody had, until after *viz.* the same day and year, the foresᵗ. *John* with force and armes, *viz.* with a certain Fork upon him the Constable assault made, and him beat, and ill intreated, and himself from the custody of the foresᵗ. Constable rescued,
For hunting in a Forrest. and escaped against the Peace, &c.

The Jurors, &c. that &c. about the tenth hour in the night, &c. having gathered to them very many other Malefactors and Perturbers unknown of, the peace of the said Lord the King, with force and armes, *viz:* &c. the Forest, &c. in the Coun. foresaid injustly did break, and enter, and the Does of him our L. the King, then and there in the Forrest foresaid lodging and feeding, with certain dogs called Greyhounds, injustly did hunt and chase, and one Doe then and there being with the foresaid dogs riotously and injustly did kill and carry away, against the
Lua Park. form of the Statute, &c.

The Jurors, &c. that *T. T.* and *B.* &c. (as above) of the publick Peace, &c. the Close and Park inclosed with pale of a certain *T.* at &c. and the Does of him *T.* then, and there in the Park foresaid, &c. to the grievous damage of him *T.* &c.

With

With certain dogs and one Net called a Buck-stal, &c. and one Doe, &c. with the Net foresaid riotously, &c. Chap. 16. With a Net.

The Jur. &c. that whereas certain *B.* and *C.* of the servants of *I.* the tenth day &c. certain Beasts, *viz.* three Cowes of a certain *T.* Gen. in a certain close of him *I.* at &c. depasturing and damage there during lawfully had distreined, that the fores. *T.* lately &c. and *M.* lately &c. having gathered to them very many other Malefactors, and perturbers unknown of the publick Peace, in Warlike manner arrayed, by the instigation and procurement of the fores. *T.* the same tenth day &c. themselves at &c. unlawfully, riotously, and routously assembled unanimously, and gathered with that intention the said publick Peace to perturb, and then and there the servants of the fores. *I.* the Beasts fores. for the damage fores. them to impound driving, did contradict and disturb and hindred to the grievous damage of him *I.* and against the publick Peace, &c. For refcuing Cattel taken damage feasant. A riot,

The Jurors, &c. that whereas *I.* and *B.* &c. the second day &c. at &c. by the command of a certain *I.* his Master, took, and distreined six Bullocks, and four Heyfars of divers colours, of the goods and Chattels of a certain *T.* then, and there found, and the herb of the fores. *I.* depasturing, and trampling, and those to the Pound open---of *F.* would have driven, and there to remain, until by due form of Law thence they should be delivered, that the fores. *T.* lately &c. the tenth day, &c. with force and armes, &c. at &c. upon the said *I.* and *B.* servants of the fores. *I.* assault made, and the said Bullocks, and Heyfars so taken and distreined from the custody of For the like.

Chap. 16. the foreſ. *I.* and *B.* then and there injuſtly took and reſcued againſt the peace, &c.

For Rape. The Iurors, &c. that &c. at &c. with force and arms upon a certain *I.* of *&c.* a maid of 16. years of age, in the peace of God, and the publike peace then and there being, aſſault made, and the ſame *I.* againſt the will of her *I.* feloniouſly raviſhed, and carnally knew, againſt the peace, and againſt the form of the Statute.

For uſing Trade The Jurors, &c. that &c. the thirtieth day &c. and many dayes continually after the ſaid day, by the ſpace of two whole moneths next following, *viz.* to the tenth day of *I.* the year aboveſaid at &c. a certain art, or myſtery, called Mercery, unlawfully for his own gain did uſe and exerciſe, then and there ſelling divers Mercery Wares to divers of the people of the ſaid Common W. where in truth the ſame *A.* never was in the ſaid art or myſtery brought up as an Apprentice by the ſpace of ſeven years, nor did the ſame *A.* the ſame art or myſtery foreſ. the twelfth day the ſecond year &c. uſe or exerciſe, to the great contempt of the Lawes of the Common W. and againſt the the form of the Statute.

For taking an Apprentice contrary to the Statute. The Iurors &c. that *A.* lately &c. Broadweaver ſuch day and year, and continually after the ſaid day by the ſpace of three moneths from then next follow, at *N.* foreſ. in the county foreſ. a certain *W.* ſon of *W.* the eld. of *D.* in the county foreſ. *B.* unlawfully and for his gain then and there as his Apprentice took had and retained, whereas in truth the foreſ. *W.* or the father of the foreſ. *W.* the younger never had lands or tenements, or other inherit. of the clear yearly value of 60. ſh. at leaſt of eſtate, heredit. or franktenement, to the great contempt

tempt of the lawes of &c. and against the form, &c. Chap. 16.

The Jurors &c. that &c. the tenth day &c. at &c. bought the whole barley growing upon twenty acres of land, at &c. to the intent the said barley to sell again, against the form of the Statute, and against the peace. For Forestalling

The Jurors &c. that *A.* &c. Merchant the 10. day &c. and divers dayes and times aswell before the said tenth day of *M.* as after the same tenth day at &c. did regrate, and buy of divers persons unknown, one hundred quarters of wheat, and twenty weight of salt, * with the true intent that the same *A.* the fores. hund. quarters of wheat & twenty weight of salt by him so bought, &c. For Regrating. *The latin addes & Bage.

The Jurors &c. that &c. in a certain place within the Parish of *R.* vulg. called *A.* which place then was the franktenement of *A.B.* of &c. (and never was in or of the Warren of him *G.* proper) two Pheasants and ten Partridges with certain nets and other engines of the value of 20. sh. then and there did take, kill, and carry away, without any assent, agreement, and speciall licence of the said *A.* in this part had or authority obtained, to the contempt of the Lawes of &c. and against the form of the statute. For taking a Pheasant.

The Jurors &c. that with force and armes &c. the close of the right noble man *T.* Earl of *Shrewsbury* he did break and enter, and foure Hawks called Sparrow Hawks, and Muskets, to the value of 10. sh. of the goods and chattells of the foresaid Earl in a certain place called the close at &c then and there in the nest being in the chase foresaid he did take and carry away, and other things enormous to the same Earl did to the grie- For taking Hawks in the nest.

vous

Chap. 16. vous &c. againſt the form of &c. and againſt the peace &c.

Againſt a ſervant for imbezilling goods.

The Jurors &c. that whereas *R.* lately &c. in the ſervice of *T.* his maſter was, and the foreſ. *T.* had delivered to the ſame *R.* 12. l. of good and lawfull money of *England* to keep, yet the ſame *R.* in the ſervice of the foreſ. *T.* his maſter being, the laws and ſtatutes of this Realm of *England* not regarding, nor the pain therefore fearing, without the aſſent or command of the foreſ. *T.* his maſter, at *L.* &c. the day &c. the foreſ. 12. l. to his own uſe felonioufly did convert, with the intent to ſteal the foreſ. 12. l. againſt the form &c. and againſt the peace &c.

The like.

The Jurors &c. that whereas *A.* &c. ſuch day and year, &c. in the manſion houſe of him *A.* at &c. had delivered to the ſame *E.* of &c. then ſervant of him *A.* for one whole year retained, and of the age of 19. years, being 10. l. in moneys told of the goods of him *A.* with the intent the ſame *E.* the ſame ſafely ſhould keep, to the uſe of the foreſ. *A.* then his maſter, the ſame *E.* the ſaid tenth day, &c. (Apprentice of the ſame *A.* then not being) at *E.* foreſ. in the county foreſ. from his ſaid maſter, together with the foreſ. 10. l. of the ſaid *A.* then his maſter, malitioufly and felonioufly departed, went away, and fled, with the intent to ſteal the ſaid 10. l. againſt the truſt in him by the foreſ. *A.* then his maſter repoſed, and placed, and thereof the ſaid *A.* his maſter foreſaid to defraud, againſt the form, &c. and againſt the peace, &c.

For uttering falſe money.

The Jurors, &c. having in his hands five pieces of falſe money in the image, and likeneſſe of pieces of money of *England* called *T.* of the value

lue every of them of six pence, and knowing them of false metalls to be made, forged, counterfeited, and coyned, not having God before his eys, but by instigation diabolicall seduced, machinating the Keepers of &c. craftily, fraudulently, deceitfully, and traiterously to deceive, and defraud, of his own wrong, without any Warrant or Grant of the Keepers of &c. made, the same five pieces of false money for wicked gain, and his advantages, to divers honest persons of the Common-wealth of *England*, at &c such day, &c. falsly, deceitfully, and traiterously did deliver and utter in payment to divers lieges, of the said Lord the King, against the peace, and against the form, &c. Chap. 16.

The Iurors, &c. that such daies, &c. at &c. twenty pieces of silver, called shillings of silver, of good, and current, and legall money of *England*, and of the coynage of the Keepers &c. falsly, feloniously, and traiterously, for impious gains sake, did clip, diminish, and file, so that by that clipping, diminishing, and fileing, every piece of silver thereof in its due weight and value, was diminished and impaired, and that money in the form foresaid clipped, diminished, and filed, to divers honest persons of the said Common W. at *W.* foresaid and elswhere in the county foresaid fraudulently, deceitfully, and traiterously exposed and uttered in deceit of divers honest persons of the said Common W. against the form &c. and against the peace, &c. For clipping of money.

The Jurors, &c. that *I. P.* lately, &c. and *R.* lately &c. such day and year, &c. with force and arms &c. at &c. upon a certain *G.* in the peace of God, and the publike peace, then and there being For Manslaughter and accessary.

Chap. 16. vous &c. against the form of &c. and against the peace &c.

Against a servant for imbezilling goods.

The Jurors &c. that whereas *R.* lately &c. in the service of *T.* his master was, and the foresaid *T.* had delivered to the same *R.* 12. l. of good and lawfull money of *England* to keep, yet the same *R.* in the service of the foresaid *T.* his master being, the laws and statutes of this Realm of *England* not regarding, nor the pain therefore fearing, without the assent or command of the foresaid *T.* his master, at *L.* &c. the day &c. the foresaid 12. l. to his own use feloniously did convert, with the intent to steal the foresaid 12. l. against the form &c. and against the peace &c.

The like.

The Jurors &c. that whereas *A.* &c. such day and year, &c. in the mansion house of him *A.* at &c. had delivered to the same *E.* of &c. then servant of him *A.* for one whole year retained, and of the age of 19. years, being 10. l. in moneys told of the goods of him *A.* with the intent the same *E.* the same safely should keep, to the use of the foresaid *A.* then his master, the same *E.* the said tenth day, &c. (Apprentice of the same *A.* then not being) at *E.* foresaid in the county foresaid from his said master, together with the foresaid 10. l. of the said *A.* then his master, malitiously and feloniously departed, went away, and fled, with the intent to steal the said 10. l. against the trust in him by the foresaid *A.* then his master reposed, and placed, and thereof the said *A.* his master foresaid to defraud, against the form, &c. and against the peace, &c.

For uttering false money.

The Jurors, &c. having in his hands five pieces of false money in the image, and likeness of pieces of money of *England* called *T.* of the value

lue every of them of six pence, and knowing them of false metalls to be made, forged, counterfeited, and coyned, not having God before his eys, but by instigation diabolicall seduced, machinating the Keepers of &c. craftily, fraudulently, deceitfully, and traiterously to deceive, and defraud, of his own wrong, without any Warrant or Grant of the Keepers of &c. made, the same five pieces of false money for wicked gain, and his advantages, to divers honest persons of the Common-wealth of *England*, at &c such day, &c. falsly, deceitfully, and traiterously did deliver and utter in payment to divers lieges, of the said Lord the King, against the peace, and against the form, &c. Chap. 16.

The Iurors, &c. that such daies, &c. at &c. twenty pieces of silver, called shillings of silver, of good, and current, and legall money of *England*, and of the coynage of the Keepers &c. falsly, feloniously, and traiterously, for impious gains sake, did clip, diminish, and file, so that by that clipping, diminishing, and fileing, every piece of silver thereof in its due weight and value, was diminished and impaired, and that money in the form foresaid clipped, diminished, and filed, to divers honest persons of the said Common W. at *W.* foresaid and elswhere in the county foresaid fraudulently, deceitfully, and traiterously exposed and uttered in deceit of divers honest persons of the said Common W. against the form &c. and against the peace, &c. For clipping of money.

The Jurors, &c. that *I. P.* lately, &c. and *R.* lately &c. such day and year, &c. with force and arms &c. at &c. upon a certain *G.* in the peace of God, and the publike peace, then and there being For Manslaughter and accessary.

Chap. 16. ing assault did make, and the forel. *I.* with a certain folcaster of the value of two shillings, which he the same *I.* in his right hand, then and there had and held, the forel. *G.* upon the forepart of the head of him *G.* to the brain, then and there feloniously did strike, and gave him then and there one mortall blow, of which mortall blow the same *G.* then and there instantly died, and that the forel. *R.* the said twentieth day, &c. with force and arms forel. at *S.* forel. in the county forel. was present, aiding, abetting, assisting, comforting, and maintaining the forel. *I.* the felony and man-slaughter forel. in manner and form forel. to do and commit. And so the forel. *I.* and *R.* the forel. *G.* at *S.* forel. in the county forel. in manner and form forel. feloniously did slay, against the peace, &c.

The like, se d. sendendo.

The Jurors, &c. that *I.* &c. such day and year, &c. with force, and arms, &c. at &c. upon a certain *H.* in the peace of God, and the publick Peace; then, and there being, assault did make, whereupon the said *H.* as much as he could to a certein door of the house of a certain *P.* then, and there shut being, did fly, beyond which door the same *H.* without peril of his life, manifestly, could not escape, wherefore the said *H.* with a certain post called a door bar, which he in his hands then and there, had and held, for saving and defence of his life, the forel. *I.* upon the head of him then and there in his own defence did strike, giving him a certain mortal wound, and the forel. *I.* then and there instantly dyed, and so the forel. *H.* the day and year abovesaid at *E.* forel. in the County forel. the forel. *I.* in his own defence did slay, and not otherwise, &c.

The

Chap. 16.

The Jurors, &c. that, &c. who the third day, &c. was of the age of sixteen years, and more, and did not repair to his Church Parochial, nor to any other Church, Chappel, nor usual place of Common-prayer, nor there was in the time of Common-prayer at any time within twelve moneths then next following, but absteined from them by the space of the foresᵗ. twelve months, against the form of the Statute, &c. For not coming to Church.

The Jurors, &c. that, &c. such day and year, &c. at &c. of his own mind, false imagination, conspiracy, and covine, a certain false deed, *viz.* a certain Indenture, by which a certain *T.* should bargain and sell all those Lands, and Tenements called, &c. with the appertin. &c. in *T.* foresᵗ. in the county foresᵗ. to a certain *I.* wittingly subtilly, and falsely did forge, and make, and the same Indenture then and there did utter, publish, and cause to be read, and in evidence did shew, to molest, destroy, and perturb the estate, possession, title and interest of the foresᵗ. *T.* in the Lands and Tenements foresᵗ. by which the same *T.* in this possession, title, and interest with the appertin. many wayes very much grieved, and vexed is, to the contempt of the Lawes, &c. and the no small damage and grievance of him *T.* and against the form of the Statute, &c. For forgery.

The Jurors that, &c. with other Malefactors, to the number of thirty persons, and further, at &c. such day, and year &c. in the manner of a new Insurrection and Rebellion in warlike wise arayed, and together assembled, with force and armes, &c. unlawfully, and of their own Authothority, feloniously did practice and put in use, to defaulk and diminish the price of Malt, and

that

Chap. 16. that the same *A.* and *B.* &c. then and there required, were by *A. B.* Esq. then one of the Justices of the county, &c. the peace in the county foresaid to conserve assign. by Proclam. in the name of the Keepers of the Libert. &c. to depart from thence, as also to return in peaceable manner to their habitation, and mansion houses from whence they came, which Proclam. notwithstanding the same *A. B.* &c. after that requeste by the same Proclam. made, feloniously there remained, and delay made by the space of one whole hour, to the great perturbation of the publick Peace; and against the form of the Statute, and to the great contempt of the Laws &c. and against the publike peace &c.

For keeping a house of unlawful games.

The Jurors, &c. that *I. D.* of &c. Inholder, such day and year, and divers other daies and times, as well before as after, at *E.* foresaid in the county foresaid a common house of play for his gain, profit, and advantage proper unlawfully did keep and maintain, and divers honest persons of the said Common W. to his mansion assembling, and coming to divers games and playes unlawful, *viz.* at Dice, Cards and Tables did permit to play, to the evill example of others, and against the form, &c.

Against a Constable for not presenting the names of Recusants.

The Jurors, &c. that *A. B.* lately &c. such day and year, &c. being Constable of the Peace, in the County foresaid at *D.* foresaid in the county foresaid his office foresaid did neglect, and presented not the names of the Recusants within his Parish foresaid at the generall Session of the peace in the county foresaid held, to the evill example, &c. and against the peace, &c.

For making a Broad cloth above 28. yards.

The Jurors &c. that *W.* lately &c. such day, and

and year &c. at *S.* foresᵗ. in the county foresᵗ. one Broad cloth listed, called a Broad listed white, containing in length thirty and one yards, fraudulently and deceitfully then and there did make and work to the great contempt of the said Lord the King, and against the form, &c. Chap. 16.

The Jurors, &c. that *A.* lately &c. Clothier, such day and year at *W.* &c. one broad cloth, called a broad listed white, wanting one yard of its due measure then and there did make and work to the contempt &c. and against the form, &c. For want of measure.

The Jurors, &c. that are, &c. being Tythingm. of *W.* foresᵗ. in the county foresᵗ. such day and year, would not make enquiry in places suspected within his tything, for certain men unkown, Felons of the said Common W. who for certain felonies and robberies by them done, prosecuted were upon Hue and Cry, nor the same Hue and Cry would follow from Parish to Parish, according to the form of the Statute thereupon set forth; but in exercising his office slackly did bear himself to the contempt, &c. and against the form, &c. For not prosecuting an Hue and Cry.

The Jurors, &c. that *I.* lately &c. such day and year at *T.* foresᵗ. in the county foresᵗ. a certain piece of the high-waies, neer his mansion house contain. &c with an hedge and ditch, then and there incloſed, and stopped up, and the same piece of the high-way in severall doth hold, and keep, and for a garden useth to the no small damage of the people of this Common W. by that way passing, against the form, &c. For inclosing the high-way.

The Iurors, that *T.* lately &c. such day and year, at *P.* foresᵗ. in the county foresᵗ. his loafs every of them of the price of one penny, of wheat weigh- For making small bread.

Chap. 6. weighing but twelve ounces, to be ſold to the people of this Common W. fraudulently, and deceitfully then and there did make, and to the great grievance of the people of this Common W. and againſt the form of the Statute, &c.

For reſcue after an arreſt of goods.

The Iurors, &c. that *T.* lately of &c. ſuch day and year with force and arms &c. at *F.* foreſ. in the county foreſ. upon a certain *P.* in the peace of God, and the publike peace then and there being, aſſault did make, and one braſſe pan, which the ſame *T.* by vertue of the Warr. of *H. Kn.* ſher. of the county foreſ. had arreſted out of the poſſeſſion and hands foreſ. with force and arms foreſ. did take away, and reſcue againſt the form, &c. and againſt the publike peace, &c.

For chaſing cattel.

The Iurors, &c. that *T.* lately &c. ſuch day and year &c. with force and arms, at *I.* foreſ. in the county foreſ. the cloſe of a certain *T.* did break and enter, and one hundred Ewes great with young, and ten beaſts of the goods, and chattells of the foreſ. *T.* in the cloſe foreſ. being, and feeding, did chaſe and trouble, and the foreſ. hundred Ewes, and ten beaſts then and there injuſtly did impound to the grievous damage of him *S.* and againſt the peace, &c.

For taking cattel unlawfully.

The Iurors &c. that *A.* &c. ſuch day and year at *F.* foreſ. in the county foreſ. the houſe and ſtable of a certain *I.* at *F.* foreſ. in the county foreſ. then and there with force and arms &c. did break, and one mare of colour brown of the goods and chattels of him *I.* then and there found injuſtly did take, lead away, and chaſe, to the grievous damage of him *I.* and againſt the peace, &c.

For turning a water courſe.

The Iurors, *&c.* that *R. &c.* ſuch day and year

year at *T.* foresᵗ. in the county foresᵗ. a certain brook there called *C.* in a certain place there called *S.* out of its right and due course did turne, and yet turneth, to the grievous damage of the Inhabitants of *F.* foresᵗ. against the form &c. and against the peace, *&c.* Chap. 16.

The Iurors *&c.* that *A.* and *B.* lately *&c.* such day and year at *B.* foresᵗ. in the county foresᵗ. did contemn and refuse to aid *R.* then Constable the peace there to conserve though often requested he was by the foresᵗ. *R.* to the evill example of others, and against the publike peace, *&c.* For not aiding a Constable.

The Jurors, *&c.* that *I. &c.* such day and year with force and arms, *&c.* at *C.* foresᵗ. in the county foresᵗ. a certain sink or gutter leading from the mansion house of a certain *R.* there by the house of him *I.* for all the necessaries of him *R.* by that sink running and conveying, unjustly did stop up, and hinder, to the grievous damage of him *R.* and to the great grievance of other the people of the said Common-wealth there inhabiting, and against the publike peace, *&c.* For stopping up a sink in a Market Town.

The Iurors, *&c.* that *T.* and *E. &c.* being Wardens of the Church Parochiall of *A.* foresᵗ. (such day and year) nor at any time since hitherto have not elected, appointed, or named Overseers of the common high-waies within the Parish of *A.* foresᵗ. by which the common high-waies at *A.* foresᵗ. in the county foresᵗ. are much decayed, to the grievance, and common nusance of all the people of the Common W. by that way foresᵗ. passing, against the form of divers Statutes *&c.* and against the publike peace, *&c.* For not chusing Overseers of high-waies.

The Iurors *&c.* that whereas *A.* and *B.* searchers of cloths within the Parish of *A.* in the

 county For refusing cloth from the Searchers.

Chap. 16. county foresl. (such day and yeare) at *A.* foresl. in the county foresl. by vertue of their office foresl. had taken and seised three clothes defective of the goods and chattells of a certain *I.* and the clothes foresl. then, and there in their custody were, yet a certain *R.* lately *&c.* the said day and year, with force and arms *&c.* at *A.* foresl. in the county foresl. the clothes foresl. from the custody of the foresl. *R.* and *B.* did take and carry away against the will of the foresl. *A.* and *B.* and against the form, *&c.*

For a rescue after a arrest by the sheriff on the Procesle

The Iuros *&c.* that whereas *E.* Esq. Sher. of the county foresl. &c. of a certain Writ to the same Sher. direct. by a certain his Warrant bearing date (such day and year *&c.*) had commanded certain *I.* *&c.* his known Bailiffs, that they should not omit for any liberty of the county foresl. but they should take *R.* *&c.* lately *&c.* if he should be found in the Bailiwick of the same Sher. and him safely keep, so that the same Sher. should have the body of the said *R.* before the Keepers of the peace of the said County and Justices the peace to conserve assign. at the next generall Sess. of the Peace Tuesday next following after Low-Sunday, to be held in the same county wheresoever it shall happen to be held, to answer the Keepers of the Libert. *&c.* of certain Tresp. and contempts whereof indicted he was, by vertue of which Warr. the same *I.* and *D.* such day and year at *S.* foresl. in the county foresl. did take the body of the foresl. *R.* and him *R.* then and there in their safe custody had, until after *viz.* the 1. day of *F.* and the year abovesl. then at *S.* foresl. in the county foresl. certain *R.* lately of *&c.* having gathered to them many o-

ther

ther malefactors unknown, with ſwords, buck- Chap. 16.
lers, ſtaves, iron of defence, and falcaſtor armed, unlawfully, riotouſly, and with force, and armes themſelves aſſembled, and upon the foreſ. *I.* and *D.* then and there in the peace of God, and the publike peace being, aſſault did make, and the foreſ. *R.* with force and arms, and unlawfully out of their cuſtody then and there reſcued, and took away, againſt the will of the ſame *I.* and *D.* Bail. foreſaid, as alſo the foreſ. *R.* himſelf from the cuſtody foreſaid of the ſaid *I.* and *D.* did reſcue, and eſcaped, againſt the will of the ſaid *I.* and *D.* and againſt the peace, *&c.*

For not paying Weavers wages according to the rates ſet.

The Iurors, *&c.* that *A.* *&c.* clothier (ſuch day and year) at *W.* foreſ. in the county foreſ. certain Salar. taxed by the Iuſtice of the ſaid county the peace *&c.* of this county of *Glouc.* at the Generall Seſs. of the peace of the county foreſ. held at *Glouc.* the Tueſday next after Low-Sunday, now laſt paſt, to his Weavers hath not given nor paid, but thereof wilfully default hath made, to the contempt of the Lawes, and great impoveriſhment of his Weavers foreſaid, and againſt the form of the Statute.

For killing calves in Lent.

The Jurors &c. that *E.* &c. ſuch day and yeare being in the time of *Lent* at *L.* foreſaid, did kill three calves, and the fleſh of them prevenient then and there did ſell to divers honeſt perſons of this Common-wealth, having no lawfull licenſe at that time ſo to do, againſt the form, &c. and againſt the peace, &c.

For robbing a Pidgeon houſe.

The Iurors, *&c.* that *A. B.* lately *&c.* ſuch day and year with force and armes, at *A.* foreſ. in the county foreſ. a certain Pidgeon-houſe of a certain *H.* Gent. about the ninth hour of the

Chap. 16. night of the ſame day injuſtly and unlawfully did break and enter, and three Pigeons of the price of 6. d. of the goods and chattels of the ſame *H.* then at *H.* foreſ. in the pigeon-houſe foreſ. found injuſtly, and unlawfully did take and carry away againſt the publick Peace &c.

For killing Pigeons with Bowes, Arrows, and Nets.

The Jur. &c. that *A.B.* &c. ſuch day and year at *L.* foreſ. in the coun. foreſ. divers pigeons and other fowl then and there with certain Bowes did ſhoot, as alſo certain Nets for the taking of pigeons then and there did ſet, and four pigeons of the value of 4. d. then and there with their Bowes and Nets unlawfully did kill, againſt the form &c.

With Guns.

The Iur. &c. that &c. with a certain Gun called an Hand-gun charged with powder, and hail-ſhot upon three pigeons then at *F.* foreſ. in the coun. foreſ. he ſhot and it did diſcharge, and the foreſ. three pigeons then and there did kill, againſt the form &c. and againſt the Peace &c.

For ſtopping up a Foot path.

The Iur. &c. that &c. ſuch day and year a certain Foot-path leading from *B.* towards *W.* in and by a certain Meadow called *S.* in *T.* foreſ. in the county foreſ. unjuſtly did obſtruct, and incloſe, ſo that the people of this Common W. by that Foot-path cannot go and return, to the great grievance and nuſance of the people of the ſaid Common W. in theſe parts abiding, and againſt the form &c.

For ſtopping an Horſe way.

The Iur. &c. that *E.* &c. a certain common Horſe-way of the Kings leading from *B.* foreſ. in the county foreſ. toward *C.* in and upon a certain bank or a wall contiguouſly adjacent to a certain &c. called *S.* in *T.* foreſ. in the county foreſ. unjuſtly did obſtruct, and incloſe, ſo that the

the lieges &c. by that Horſe-way *&c.* as above. Chap. 16.

The Iurors that *R.* *&c.* being Conſtable of the Pariſh of *F.* foreſ. in the county foreſ. (ſuch day, and year) divers ſums of pence, *viz.* ten pence of *A.* and *B.* 1. d. and of other the people of this Common W. for watch there to hold, unlawfully, and extortiouſly had and received, where the foreſ. *R.* no ſuch watch kept, nor any ſuch ſum ought to receive againſt the publick Peace, &c. Againſt a Conſtable for taking money for watch, and not watching

The Jurors &c. that *A.* &c. the day, and year, &c. and ever after, to the day of the taking of this inqueſt, *viz.* by the ſpace of two intire moneths, at *S.* foreſ. in the coun. foreſ. did retein, take and detein a certain *I.* then, and long before being the ſervant of certain *I.* of *S.* foreſ. and then having divers years to ſerve the ſame *I.* in his Art or Miſtery of a Weaver, which the ſame *I.* then did uſe, to the grievous damage of him *I.* and againſt the form &c. and againſt the Peace. For keeping a mans ſervant from him.

The Jurors, &c. that *H.* lately *&c.* ſuch day and yeare, with force and armes, &c. at *B.* foreſaid in the county foreſaid was, and elſwhere in the county foreſaid is, and for many years by paſt hath been a common perturber of the publique peace, and an oppreſſor of very many of his neighbours, and of other the people of this Common-wealth, in the county foreſaid; as alſo a common Malafactor, Riotor, Fighter, and ſower of ſtrife and diſcord betwixt his neighbours foreſaid to the great harme, grievance, and perturbance of the people of this Common-wealth, in the county foreſaid, againſt the form, &c. and againſt the publike peace, &c. Againſt a turbulent perſon.

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For keeping a bawdy house.

The Jurors, &c. that *I.* lately &c. the day and year, &c. and divers times, as well before as after, with force and armes at *T.* foresaid in the county foresaid, did keep and maintain a stews house, or bawdy house, to the grievous annoyance of the people of this Common-Wealth, against the form, &c. and against the peace, &c.

Against a Drunkard.

The Jurors, &c. that *C.* &c. the day and year, &c. and divers other daies and times, as well before as after, at *C.* foresaid in the county foresaid, and elswhere in the county foresaid, was and yet is a common Drunkard, frequenter of Tavernes, and perturber of the publique peace, to the evill example, *&c.* against the forme, *&c.* and against the peace, *&c.*

For keeping an Alehouse.

The Jurors, *&c.* that *A. &c.* day and year *&c.* and divers other daies and times, as well before as after, at *C.* foresaid in the county foresaid obstinate and out of his owne authority, and without any admission or allowance of the Justices of Peace of the County foresaid, took upon himself to keep, and did keep a common Alehouse, or tipling house, against the form, &c.

For refusing to administer the Sacrament.

The Jurors, *&c.* that *A.* lately of *&c.* Clerk, being Rector of the Church of *C.* foresaid, at *C.* foresaid, in the county foresaid, without any lawfull cause did refuse to administer the Sacrament of the Eucharist, commonly called the Sacrament to a certaine *T.* then Inhabitant within the Parish of *C.* foresaid, against the form, &c.

FINIS.

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